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The Solicitors' Journal.

LONDON, APRIL 30, 1870.

VICE CHANCELLOR JAMES gave judgment yesterday in *Wood* v. *Chart*, a case which has excited the greater attention from its being the first under the International Copyright Act, 1852 (15 Vict. c. 12), at least so far as that statute relates to dramatic compositions. The provisions of the Act, so far as they came in question in this case, are substantially these—the authors of foreign plays (*i.e.*, plays first performed abroad) may prevent the representation in the British dominions of any unauthorised translation, for a period not exceeding four years from the first publication or representation of an authorised translation, but nothing in the Act contained is to prevent "fair imitations or adaptations to the English stage" of a foreign play. To obtain the benefit of the Act the following requisitions must be complied with: (1.) the original play must be registered, and a copy deposited in the United Kingdom within three months of publication; (2.) the author must notify on the title-page his intention to reserve the right of translation; (3.) a *translation* sanctioned by the author must be published within three months of the registration of the original work; (4.) such translation must be registered.

Such being the law, the following are the facts:—"Frou-frou," a French comedy, was registered in England; an English version was made, published, and registered. Mr. Wood, the plaintiff, became assignee of all English rights both of the authors and translators. An unauthorised version was made and publicly acted by the defendants. Thereupon the plaintiff filed his bill for an injunction and an account. It must now be noticed that the authorised English version of the plaintiff was entitled "Like to Like," the scene transferred to England, the names of the characters changed to English names, and certain alterations and omissions made in the dialogue, but the plot and the main incidents continued the same. The Vice-Chancellor dismissed the bill, holding that the requisitions to entitle the plaintiff to the benefit of the Act had not been complied with, for "Like for Like" was not a "translation" within the meaning of the Act, but rather "an imitation or adaptation to the English stage." The proper course, the Vice-Chancellor said, would have been to publish an authorised translation of the whole work. This translation need not have been acted, but any alteration or adaptation of it might have been represented by the plaintiff or his licensees. Had the plaintiff done this, and then come into court, the Vice-Chancellor affirmed that he would have restrained the defendants' version as a piratical translation.

THE NATURALIZATION BILL passed through Committee in the House of Commons on Monday night, with but little discussion on the clauses. Three alterations have been made by the Committee. First, on the motion of Sir C. Dilke, endorsed by the Solicitor-General, the clause was omitted which empowered the Government to suspend the provisions of the bill so far as it relates to property held by aliens in the time of war. Secondly, a proviso was added to clause 4, to the effect that a person born abroad of a British father, may, if of full age, and not under disability, make a declaration of alienage, and shall thereupon cease to be a British subject. Thirdly, the time during which an alien must reside in this country before becoming entitled to a certificate of naturalization was increased from three to five years. A formidable alteration was proposed, on the report, by Mr. Vernon Harcourt, who wished to enact, in effect, that persons born within the dominions of her Majesty of alien fathers shall not be British subjects unless naturalized, and that persons born abroad, whose fathers are British subjects, shall not be natural-born British subjects when their fathers have never resided within the dominions of her Majesty. These proposals were met by Sir Roundell Palmer with the objections that, however sound they might be in theory, to attempt to apply them in practice would land us in difficulties of a most alarming nature; and that to adopt them would be to introduce an element of difficulty and contention into the very relations with the United States which it was the object of the convention to adjust. The Solicitor-General, on behalf of the Government, refusing to accept the amendment, it was negatived without a division. The bill as it stands will be read a third time next week, and will then be sent back to the Lords. They will hardly disagree with the few amendments of the Commons.

THE NEW HALL of the Inner Temple is to be opened by H. R. H. the Princess Louise, accompanied by Prince Christian, on Saturday, May 14, when a déjeûner will be given in the new building at one o'clock. There is also to be a banquet in the hall on the following Wednesday (May 18), at half past 5 p.m. The sub-treasurer has issued a notice to members of the inn, stating that as many places as possible will on each occasion be reserved for barristers and students of the inn; those who wish to be present on either occasion are requested to send their applications to the sub-treasurer on or before Wednesday (May 4), stating for which of the two days an admission ticket is desired. The allotment of tickets is to be made according to seniority, and notified immediately afterwards, and it is to be understood that as the accommodation in the hall is limited, no barrister or student can be present on both occasions.

THE SUBJECT OF COMPENSATION FOR RAILWAY ACCIDENTS, to which we have recently referred on several occasions, has now been brought before Parliament, and a motion by Mr. C. Denison for a committee of the House to investigate the subject has been carried. We were glad, however, to observe that an amendment proposed by Mr. Hinde Palmer, Q.C., was also carried, and that the committee will consider not only what ought to be done, if anything, to relieve the railway companies from the hardships of which they complain, but also whether something further cannot be done to render railway accidents less frequent. The whole subject is certainly a very fit one to be investigated by a Parliamentary committee; we fear, however, that the case of the railway companies is likely to be brought much more effectively before the committee than the case of the public. Of course the railway directors will take care that all the evidence that can be given on their side of the question comes before the committee; while, on the other hand, the case of railway passengers will be left to be protected by the voluntary exertions of members of the committee unprompted by any individual or particular interest. The proceedings of the committee will therefore require careful watching. One of the first things which the committee should do, as it seems to us, is to ask for a return of the amount paid for compensation for a certain number of years, as well from the railway companies which have been fortunate as from those which have been unfortunate. When these amounts were obtained and compared with the gross receipts for passenger fares during the same period,

it would probably appear that, taking all the companies together, there would be little ground for saying that the amount of the fares had not been sufficient reasonably to cover the risk to be incurred. Even, however, if, upon this comparison, it turned out that the amount paid as compensation was large in proportion to the total fares, this would not of itself prove the case of the companies, because a considerable number of the accidents might no doubt have been avoided by good management, and as to these there can be no reason at all why full compensation should not be made. The only cases where there is any ground for limiting the compensation are where the accidents, although caused by negligence of the companies' servants, are yet such as must, owing to the nature of the traffic and to human fallibility, occasionally happen with the best management that can reasonably be called for. Of course it will be impossible to ascertain accurately the amount which has been paid by the companies as compensation for accidents coming within this category, but a fair estimate can be made by deducting from the total compensation paid by any particular company that paid in respect of particular accidents notoriously attributable to bad management. We notice that Mr. Denison adduced as an argument in support of his motion the great disproportion between the profit which would have been made by the Brighton Company by the safe carriage of the passengers in the New Cross accident and the actual amount of compensation which they had to pay owing to their not having carried them safely. This, however, goes no further to show that fares generally do not cover the risk than the death of a person within the first year after he had insured his life, after the payment of one premium only, would show that the office did not charge sufficiently high premiums fairly to cover their risk.

THE APPLICATION IN THE CASE OF Dr. Kinglake, which we anticipated would be made (*ante* p. 447), came before the Court of Queen's Bench on Saturday last, when Sir John Karslake moved, on behalf of the defendant, for a new trial, on the ground that Mr. Justice Hannen had improperly disallowed the privilege of silence claimed by the witness Lovibond. Lovibond, our readers may remember, took two objections to being compelled to answer: first, he alleged that his answers would tend to expose him to a criminal prosecution, and, secondly, that they would be evidence against him in actions for penalties under 17 & 18 Vict. c. 102 (the Corrupt Practices Act, 1854), now actually pending against him. On the first head, his objection was removed by a free pardon being presented to him for all offences of which he might have been guilty at the election of 1868. There still remained, however, the pending actions for penalties upon which the pardon could have no effect whatever. Did these entitle the witness to protection? The judge decided that they did not, upon the ground that the "penalties" recoverable were really nothing more than civil debts, and he added that he was fortified in his opinion by the circumstance that in the actions themselves in which Lovibond was defendant, he was, under 17 & 18 Vict. c. 102, s. 35, competent and compellable as a witness. Sir John Karslake strongly urged on the Court that this circumstance did not abridge Lovibond's privilege in any proceeding other than the action itself, and pointed out the practical hardship which might result from a contrary interpretation of the section. But neither upon this point nor upon the more general question whether a mere action for pecuniary penalties is sufficient to entitle a witness to refuse to answer, did the learned judges pronounce any very definite or decided opinion. The Chief Justice appeared to think the well-known rule as to the liability to a "penalty or forfeiture" being a ground of protection did not apply to a penalty recoverable by civil process. Mr. Justice Blackburn considered that the matter would have been doubtful had it not been for 17 & 18 Vict. c. 102, s. 35, which, in his judgment, took away the reason for the existence of the privilege altogether. It became unnecessary, however, to decide these somewhat difficult questions, inasmuch as all the judges (Cockburn, C.J., Blackburn, Mellor, and Hannen, JJ.) were agreed in thinking that the evidence, having once been admitted, was evidence of which the defendant had no right to complain, and that they could not review, at his instance, the judge's decision. It must, therefore, be taken to be the law that if the judge at *nisi prius* overrules, even though improperly, a witness's privilege, his discretion is absolute so far, at all events, as the parties to the proceeding are concerned. The case would, of course, be different if the privilege were improperly *allowed*, as then the party who desired the evidence to be given would suffer an injury of which he would have a right to complain. The distinction between the improper *admission* and improper *rejection* of the evidence where the witness claims his privilege is very clearly laid down by some of the judges in *Doe d. Egremont* v. *Date* (3 Q. B. 621), where Lord Denman, C.J., expresses a strong opinion that in both cases the Court ought to grant a new trial if the judge at *nisi prius* goes wrong. That opinion, on which Sir John Karslake chiefly relied, may now be considered as definitely overruled, so far as it has reference to the improper admission of evidence. The consequence will probably be to retrench within the narrowest limits, the allowance of claims of privilege for the future. For it is always desirable to admit evidence relevant to the issue, if possible, rather than exclude it; and with that view judges may be perhaps inclined to disallow claims of privilege rather more freely than heretofore, especially when they know that in taking that course there is no possibility of their decision being afterwards reversed.

A GOOD SPECIMEN of the result of careless legislation came before the Court of Queen's Bench last week in *Bowden* v. *Allen*, when the blunders in the Newspapers, &c., Repeal Act, 1869 (32 & 33 Vict. c. 24), became apparent. That statute repeals various enactments of George 3, restraining public meetings, lectures, &c., and so far was a beneficial Act, but it also repeals parts of more modern statutes, and amongst them some portions of 6 & 7 Will. 4, c. 76. Amongst the repealed sections of 6 & 7 Will. 4, c. 76, are sections 6, 8, and 13, by which declarations are to be delivered to the Commissioners of Stamps, containing the names, abodes, &c., of the printers, publishers, and proprietors, of every newspaper, &c., signed by such printers, publishers, &c., and describing the printing-house, house of publication, and title of the paper. A copy of these declarations is made conclusive evidence against the persons signing it, of all the matters therein stated; a copy of every paper published has also to be delivered to the Commissioners of Stamps, and the production of a copy of the declaration and of a newspaper bearing the same title as the paper mentioned in the declaration is made sufficient proof of the publication of the paper by the persons signing the declaration. Section 19 also compels any one to answer a bill of discovery filed to assist an action of libel by discovering the printers, publishers, or proprietors, of a newspaper; and the section further provides that such discovery shall not be made use of as evidence or otherwise in any proceeding against the defendant, save only in that proceeding for which the discovery is made.

The Newspapers, &c., Repeal Act, 1869, has repealed these sections, and consequently the old difficulty of proving the publication of a libel in a newspaper provided for by sections 6, 8, and 13, is revived. Section 19, it is true, is re-enacted in the repealing Act, but it only meets this difficulty by giving a remedy in equity, (necessarily causing delay and expense) in aid of the common law process.

In noticing the Newspapers, &c., Repeal Act, 1869, in the Legislation of the Year (13 S. J., 919), we pointed out this consequence of the repeal of 6 & 7 Will. 4, c. 76, and we then said, "If the framers of the Act had said

not only that defendants should answer a bill of discovery in equity, but should also answer interrogatories in an action of libel, much would have been done. At present a defendant can refuse at law to answer such interrogatories, on the ground that he would expose himself to criminal proceedings; and if so, the plaintiff must go to the Court of Chancery to get the very same questions answered."

The difficulty which we then anticipated has now occurred in *Bowden* v. *Allen*, which was an action for a libel in a magazine. The plaintiff administered interrogatories to the defendant asking if he was the publisher of the magazine. The defendant refused to answer, on the ground that he might by answering expose himself to criminal proceedings, and the Court of Queen's Bench held that he was not bound to answer.

The plaintiff must, therefore, either run the risk of failing to prove at the trial that the defendant is the publisher of the magazine, or must incur the delay and expense of a bill in order to procure a discovery to which he is admittedly entitled, but which he cannot obtain in the course of the action, in consequence of the defects of the common law procedure. This is certainly not a satisfactory state of the law, and most people will agree with Brett, J., "That this did seem to him a lamentable state of things. He supposed it was an omission in the last Act of Parliament, but it was such an omission that the sooner it was rectified by the Legislature the better."

It is to be noticed that at chambers Willes, J., in this case, allowed these interrogatories to be administered, leaving any objection to them to come from the defendant himself on oath. This is carrying very far the rule of practice that the objection that interrogatories are criminating cannot usually be made on the application for leave to administer them, but must come on oath from the party interrogating. The direct and only object of these interrogatories was to compel the defendant to admit that he had published a libel.

ON WEDNESDAY LAST THE case of *Mordaunt* v. *Mordaunt* came before the Full Court for Divorce and Matrimonial Causes, on appeal from the order of Lord Penzance. The judges were, Kelly, C.B., Lord Penzance, and Keating, J. It will be remembered that this is a suit for dissolution of marriage, and the question now in dispute is whether the insanity of the respondent, Lady Mordaunt, is a bar to the suit. The respondent was found to be insane by the verdict of the jury about two months ago, and subsequently Lord Penzance made an order that "no further proceedings be taken in this suit until Lady Mordaunt recovers her mental capacity." This order was a formal one made that the question might be raised before the Full Court, and Lord Penzance expressed no opinion one way or the other in making it.

The hearing of the appeal occupied Wednesday and part of Thursday last, and the Court have taken time to consider their judgment. We have before (*ante* 349) noticed the few English cases which bear directly on this point. In addition to these some American authorities were also cited in the argument.

MR. JOSHUA WILLIAMS ON THE REAL ESTATE INTESTACY BILL.

The paper read by Mr. Joshua Williams, Q.C., at a late meeting of the Law Amendment Society, though nominally dealing only with the Real Estate Intestacy Bill, already noticed in these columns, has really a far wider scope, and embraces the whole law of succession to real property. On the provisions of the particular bill in question we should not think it necessary to add anything to our former notice,* but that some of Mr. Williams' suggestions, connected more or less indirectly with this point, are of great value and importance, and would at any rate require special consideration if only on account of the authority due to the source from which they emanate.

Mr. Williams desires, and we fully agree with him, to get rid of the last traces of feudalism from our system of land tenure, and he would, for that purpose apparently, abolish heirship at law altogether, and vest all lands in the executors or administrators, to be dealt with in the same manner as personal estate. But in this he seems to us to overlook the essential differences, so often pointed out in these columns, between moveable and immoveable property, differences not in the least due to or connected with the feudal system, and which cannot, we venture to think, be safely disregarded in any proposed amendment of the law. It is certainly not the case, so far as our experience goes, that leaseholds for long terms of years are "for all practical purposes the same as freeholds." On the contrary, for the very practical purpose of sale by auction they are, except in the case of houses in certain large towns, always at least one per cent., and often in a much greater degree, less valuable than freeholds: nay, we have known at least one instance where copyhold, undistinguishably mixed with long leaseholds, tended to raise the value of the whole, whereas if so mixed with freehold it would, as every conveyancer knows, and none better than Mr. Williams, have inevitably depreciated it. Whether this seemingly anomalous result is due to fancy, or to the exemption which real estate now enjoys from probate and administration duty, or to any greater pride of ownership still attaching to the possession of estates of inheritance, we cannot say, but such is the fact, and it must be fairly met if this question is to be properly discussed. For any alteration of the law which would put freeholds on the same footing with leaseholds would apparently operate to depreciate the value of the entire soil of England by about one ninety-fifth part; and this evil, though certainly too insignificant to stand in the way of any really valuable reform, ought not to be wantonly or inconsiderately incurred.

We agree with Mr. Williams that if the immoveable property of an intestate is to be divided, the proper course is to direct a sale and division of the money. The evils of the indefinite subdivision of land, resulting in a deteriorated agriculture and an overcrowded semi-pauper population, are far more serious than any advantage which can be anticipated by the most enthusiastic advocates of the proposed change, and we are glad to see that Mr. Williams not only recognises these evils, but boldly adopts the only possible means of obviating them. At the same time there are certain other disadvantages inseparably connected with this plan of sale. To say nothing of the cost of successive sales, which in a few generations would go far to eat up the value of the smaller properties (and it is pretty generally admitted that only the smaller properties would be practically affected by any change in the law not fettering the power of testamentary disposition), it is impossible to disregard the instinct of "locality." By this we mean the feeling, which seems universal in the human species, except perhaps some of the negro tribes, by which the land where we were born, the property which we have inherited, the house in which we have lived, acquires a special value in our eyes utterly distinct from and independent of not only its own intrinsic value, but even any consideration of neighbours or nationality. For the peculiarity of this feeling—irrational, if you will, but not the less prevalent—is that it is the soil itself, and not merely the people that are on it, which is the object of affection, so that we constantly see persons return, often at considerable sacrifice, to the place of their early associations, though knowing that they will not find there a single person with whom they have any acquaintance or who will have any recollection of them. Now there is no class among whom this cat-like tendency, if we may so describe it, is stronger than it is among the smaller landed gentry—*i.e.*, the class most likely to be affected by the proposed change of law; and nothing will, we think,

* 13 S. J. 764.

be more calculated to provoke resistance to any such change on the part of this class (for whose benefit it is mainly proposed to be introduced) than any plan involving the necessity for sales of their land, which they would as a body look upon as little better than forced expatriation.

Perhaps the best way of meeting this difficulty would be to adopt for all estates the plan proposed by Mr. Williams for cases of hereditary rank—viz., that the land should descend unbroken to the heir, but charged with a proper provision for the other next of kin. The working of this plan might be further facilitated by attributing all the moveables in the first place to the junior next of kin, so as to reduce the ultimate charge on the land to a minimum; giving, however, liberty to the heir, should he in any case prefer it, to sell the land within a limited time, and on bringing the produce into hotchpot to take his share of the moveables instead. There are some isolated cases where this course would be desired, but we believe that, as a rule, the head of the family would be found to cling to the land, even though he thereby in effect paid an exaggerated price for it. The case of partnership lands, adduced by Mr. Williams, is not in point to this question, because such lands are, *ipsâ naturâ rei*, merely a form of capital, having no extrinsic value whatever; and in this case the rule which makes such lands real estate in the hands of the surviving partner might well be abolished, at least where such partner had not, by some unequivocal act, declared, after the determination of the partnership, his desire that such land should be so treated.

Again, we agree with Mr. Williams that the real estate of a married woman should not go to her husband to any greater extent than it does at present: nay, we go even somewhat further than he does, for if we rightly understand him he would give the surviving husband (or wife) an estate in fee simple in one-third of the wife's (or husband's) lands, whereas we cannot help thinking that the provision already made by law in this respect is ample, if not too great. In one point, however, the law on this matter seems to us to require amendment. The Dower Act, in its eagerness to free real estate from the restraints on alienation imposed by the old law of dower, not only enabled the husband to alien all his realty by act *inter vivos*, or by will, but even to defeat the dower by a mere declaration in the conveyance to himself, though it might operate only for the benefit of the heir. This seems to us to have been wrong, and we would propose that in all cases in which lands are suffered to descend to the heir, no matter what might have been the form of conveyance to the ancestor, such heir and his heirs and assigns should be bound to pay to the widow during her life one-third of the net rents after all proper deductions, in lieu of her dower "by metes and bounds," including, of course, a proper occupation rent in respect of any part of the property occupied by the owner for the time being himself. Tenancy by the curtesy we would be inclined somewhat to curtail. The reason of the rule that this right depends on the mere fact of issue having been born alive seems to be referrible to the law respecting the old conditional fees before the Statute De Donis, and it is at any rate sufficiently absurd to warrant its abrogation. We do not see any good reason why the surviving husband should during his life exclude his wife's relations, in whom he has presumably no interest, from the possession of her real estate, although it may be reasonable enough that, as head of the family, he should be entitled to this possession to the exclusion of his own children. We would therefore limit tenancy by the curtesy to the cases where the immediate reversion was vested in some child or children or remoter issue of the marriage, and we would also, as Mr. Williams suggests, make the husband's right subject to any provision which the wife may have made by deed or will.

The question of alienation of real estate by married women is one of the utmost difficulty and perplexity: on the one hand it is absolutely necessary to throw over the wife some protection against her own weakness and her husband's possible greediness, and on the other it is not desirable to render such estates absolutely inalienable during the coverture. We agree with Mr. Williams that the present system is a failure, and yet we are unable to suggest a better, short of an absolute restraint on alienation without the consent of the Court of Chancery, which we feel to be more than the occasion requires. Mr. Williams' suggestion, that "every married woman, with the concurrence of her husband, should have power to dispose of her real estate by a deed simply executed in the usual way," would simply hand over to nine-tenths of the husbands in the kingdom the fee simple of their wives' real estates within a short time after their marriage. At present husbands do not like the exposure and expense involved in separate examination and acknowledgment, and therefore the estate remains in the wife till some alienation is really desired; but upon Mr. Williams' plan a pocket deed vesting everything in the husband "in case of emergency" would be as usual as is now a disentailing deed by tenant in tail on coming into possession, "just to be ready."

We do not agree with Mr. Williams that the heir of the person last seised ought to inherit instead of the heir of the last purchaser. This question was considered, and the law deliberately altered, on the occasion of the last great reform of our real property law, and we think that the alteration was just in principle, and ought not to be disturbed. We do, however, quite agree that the heirs the stock of descent *ex parte maternâ* are unduly postponed, and would propose to substitute for the existing rule some such principle as the following. When the "last purchaser" is a purchaser only in a technical sense, and has in fact become entitled by gift, settlement, or devise from any relation, then the relations of such purchaser on the side whence the property has come should take before and in exclusion of all relations in equal degree of the other side; but subject to this qualification, all relations in any degree whatever on either side should take before and in exclusion of all relations in any more distant degree. When the last purchaser is a purchaser for valuable consideration other than marriage the descent should be the same as if he had acquired the property by gift *ex parte paternâ*.

By this rule the mother would inherit next after the father (or *vice versâ*), and brothers and sisters of the half blood by the same mother would come next after similar brothers and sisters by the same father, both sets of these being, of course, postponed to brothers and sisters of the whole blood.

We are utterly unable to concur in Mr. Williams' suggestion that the Crown is more entitled to a man's real estate than his second cousins, and we cannot even understand the suggestion that beyond the limit of first cousinship there is usually no expectation of provision. In our experience a man's nearest known relatives, however distant, are usually considered as naturally entitled to succeed him, and they most certainly, where there has been no ill-feeling or estrangement, expect to do so. The prevalent feeling in this respect is well illustrated by the common practice of testators of real estates, even of but moderate extent, who habitually, at least when they have no children of their own, devise their estates to every *known* relative in succession, according to their relationship, with an ultimate remainder to their own right heirs, so as to sweep in any *unknown* relative who might be able to prove his title.

One point, not noticed either by Mr. Williams or any of the speakers in the subsequent discussion, seems to us worth mentioning. If the distinction in the devolution of real and personal estate be preserved in any form whatever, we think the primary liability of the personalty to the payment of debts, &c., ought to be abolished, and all debts and expenses come *pari passu* out of the real and personal estate in cases of total intestacy, and out

of the residuary personalty and descended realty in cases of partial intestacy. The rule which sweeps away the entire fund of the next of kin for the payment of debts, whilst leaving untouched the property of the heir, seems to us to be productive of much greater hardship, and to involve far more practical injustice, than any arbitrary distinction (and all rules of descent must be arbitrary) in the descent of moveable and immoveable property.

COURTS.

COURT OF COMMON PLEAS.

(At Nisi Prius, before WILLES, J., and a Common Jury.)

Allsop v. *M'Gowan and Danks.*

This was an action by John Allsop, an attorney of Bromley, for a libel alleged to have been published in the *Will o' the Wisp* newspaper of the 5th of March last, of which paper the defendants were said to be the printers.

The article complained of was headed "Beggars and Beggarly Natures," in which it was stated that Mr. Allsop had set a savage dog at a beggar, with various comments.

The plaintiff said that on Sunday morning, the 13th of February, he was reading the Church Service to his wife, when the maid servant informed him that a man was on the premises and trying the door. He went down, let loose his dog, who was barking, and who ran before him and attacked and bit a man named Webb. He pulled the dog off, followed the man, gave him into custody, and eventually preferred a charge against him, which was dismissed by the magistrates.

Serjeant Parry, *Nasmith* and *Cunningham*, for the plaintiffs.

Brandt for the defendant M'Gowan.

Waddy for the defendant Danks.

Brandt contended that the article complained of was a fair comment upon what had occurred, and that the plaintiff did actually set the dog on to Webb, the man had been bitten in the arm, the hand, the leg, and the back; if the dog was ferocious the plaintiff ought not to have let him out; if he was quiet the plaintiff must have set him on, otherwise he would not have bitten Webb so seriously.

Waddy contended that his client was only a servant in the employment of Mrs. M'Gowan, the other defendant, and

WILLES, J., ruled that he was not liable; but as to Mrs. M'Gowan, although she had personally nothing to do with the printing of the paper, she was answerable for what was printed in what was clearly her establishment. It was proved that she was an old lady verging on eighty, and the plaintiff admitted that he had brought about five other actions for reports of Webb's case in different newspapers.

Verdict for the plaintiff against M'Gowan—Damages £50.

(Sittings in Banco, before BOVILL, C.J., and KEATING, SMITH and BRETT, JJ.)

April 25.—*Jones* v. *Bewicke.*

Cooper moved for a new trial, on the ground that the damages were excessive. The action was for a libel in charging the plaintiff with perjury in two letters written to the plaintiff's attorney, and also for addressing a letter to the plaintiff as "Old Perjury Jones, Llanelly." The defendant, in 1868, married the daughter of the plaintiff, a solicitor, of Llanelly. The marriage was an unhappy one, and on the wife's application a divorce was obtained in the Divorce Court, Lord Penzance decreeing to her alimony amounting to £250 a year out of the defendant's estate. The amount of that alimony was arrived at on evidence given by Mr. Jones as to what he had heard the defendant say his estate was worth. On the first quarter's payment becoming due the defendant sent it in a letter to Mr. Jones' attorney, accusing Mr. Jones of having committed perjury in his evidence. On the next payment becoming due he sent a similar very violent letter. The next payment he enclosed in a registered letter to Mr. Jones, addressed outside to "Old Perjury Jones, Llanelly." The postmaster, knowing something of the matter, sent this letter by a clerk to the plaintiff and, so far as this and the other letters went, there was no pretence for saying the plaintiff was injured by the defendant's conduct. Mr. Bewicke had conducted himself in a very unfortunate manner when in the Divorce Court. The action resulted in a verdict for £500.

BRETT, J., said in his opinion the conduct of Mr. Bewicke in the Divorce Court had been most disgraceful, and the only excuse that could be suggested for him was that he was not responsible for his actions.

Cooper said Mr. Bewicke wished to express his regret for the expressions he had then used. With regard to the injury Mr. Jones had sustained, he submitted that he ought to be satisfied with a verdict and nominal damages. But he had got £500, which was a very heavy sum to receive for what had occasioned his character no damage. Mr. Justice Byles had stayed execution to enable him to make this motion.

The COURT said they would consult Mr. Justice Byles on the matter.

(Before BOVILL, C.J., and BYLES and BRETT, JJ.)

April 27.—*In Re Thomas Eaton, an attorney.*)

An attorney may be struck off the rolls for fraudulent conduct dehors the scope of his functions as an attorney.

In this case, *Garth*, *Q.C.*, on behalf of the Incorporated Law Society, had obtained a rule *nisi* calling on Mr. Thomas Eaton, an attorney, to show cause why he should not be struck off the roll of attorneys.

The charge against Mr. Eaton was that he had been in the habit of answering advertisements for the sale of estates and entering into contracts to purchase, with no intention of completing, and on delivery of abstract raising technical and other objections, and finally offering to forego the contract on payment of a sum of money.

The charge had been referred to Master Bennett, who reported that from 1861 to 1869 Mr. Eaton had been in the habit of inducing intending vendors of estates to enter into open contracts for their sale by offering sums above their value, without any intention of completing such contracts, and then raising objections to the title, generally unfounded, and merely technical, for the purpose of extorting money from the vendors to be let off their contracts. These proceedings had been systematically pursued for the purposes of fraud and of extorting money. In one or two cases the vendors had carried the cases to the court, when Mr. Eaton had been defeated, and had had to pay the costs. The master having read his report,

Joyce, for Mr. Eaton.—My Lords, I do not know what I am to say after that report, but I merely submit to your Lordships that these matters are really not matters done in the office of an attorney.

BOVILL, C.J.—Do you think the taking advantage of his professional knowledge as an attorney in endeavouring to entrap the unwary over a series of years is not within his province as an attorney?

Joyce.—I have always thought the application to strike a man off the rolls should be for acts done in the office of an attorney.

BOVILL, C.J.—Do you think that a man being guilty of fraud is not sufficient to take him off the rolls?

Joyce.—Your Lordship sees the striking off the rolls will not prevent this class of business being carried on.

BOVILL, C.J.—He has been acting as an attorney, because one ground on which he asked for money and obtained it was, that he had incurred costs, those being costs that he had charged himself.

Joyce.—After that it is difficult for me to say—

BOVILL, C.J.—Difficult for you to say he is a man fit to remain on the rolls of the court.

Joyce.—I do not think striking off the rolls will remedy the present evil.

BOVILL, C.J.—But there may be another remedy besides that. Men who pursue such a course may find out the law is strong enough to reach them.

Joyce.—I will not occupy the time of the Court.

BOVILL, C.J.—We need not trouble you Mr. Garth. This application is made calling on Mr. Thomas Eaton to show cause why in one alternative he should not be struck off the roll of attorneys of this court. The charge against him was that for many years past he had been in the habit of drawing intended vendors and purchasers of property upon contracts towards himself, without any intention on his part of purchasing, but with an intention of finding some technical or colourable ground for refusing to do so, and thus obtaining compensation for abandoning the contract. That charge was investigated before the master, there having been various affidavits produced in court requiring the attorney to show cause why he should not be struck off the rolls. Many cases have been investigated by the master, com-

mencing in the year 1861 and coming down to the year 1869. When the matter was investigated before the master, Mr. Thomas Eaton had an opportunity of attending to give any explanation that he thought fit, but he has not attended before the master to be examined personally. Probably there is very good reason for his not attending, and from the circumstances that were proved in the cases that were investigated, the master is satisfied that what took place in this case was a portion of a systematic course of fraud. The master distinctly finds that; and if it was part of a system of fraud the probability is that, if Mr. Eaton had presented himself for examination, not only these cases could not have been explained, but some light might have been thrown on some of his other transactions, and probably not very favourably to himself. However, we do not take that into consideration, because it is quite sufficient, on the cases that have been investigated, to say that the master is fully justified in stating his finding that these contracts were fraudulently entered into by Mr. Eaton with no *bona fide* intention to complete them, but with the view of extorting money from the vendors by raising difficulties which they would be unable to remove. Those objections are found by the master to have been in some instances purely technical, and in others colourable only, and not raised for any *bona fide* object of obtaining protection as a purchaser. In many instances Mr. Eaton did not even go to see the property, and the result is that the master has come to the conclusion that Mr. Eaton has beeen guilty of fraud and misconduct with reference to the matters contained in these rules. It is not sought by Mr. Joyce at all to impugn the conclusion at which the master has arrived. Indeed, on these facts it was impossible for him to do so. He suggests that these matters found by the master were not connected with Mr. Eaton's office as an attorney; but that objection fails entirely, if it were the only objection, because here was the case of an attorney availing himself of his knowledge of the profession, not for the purpose of assisting the Court and advising clients, but using his knowledge for the purpose of defrauding those not so well acquainted with the law as he was. I should be sorry to lay down any such narrow rule as that the misconduct of the party must be in his character simply of an attorney. It is manifest that there is no such rule. Each case depends on the circumstances, and the question is whether such a man is fit to remain upon the rolls of the court—whether he should be left to remain a member of an honourable profession in which the important interests of his clients are placed in his hands. It is clear in this case he has been guilty of gross fraud and misconduct, rendering him unfit to be an officer of the court; and, therefore, I think that the rule should be made absolute to strike him off the rolls.

Byles, J.—I am of the same opinion. I have listened with great attention to the statement of the master. I collect that in eight or nine cases Mr. Eaton entered into contracts with no intention of completing them, but knowing very well from his knowledge as an attorney that he should be able to entrap the vendors, and in those cases he has used the contract simply as a means of obtaining money. I agree with the master that those two other cases in which he has not succeeded are against him and not for him, for in those cases he had not even a pretext for the objections. Mr. Joyce says he did not act as attorney. He used his knowledge as an attorney, as my Lord has pointed out, for a fraudulent purpose. He was, at all events, his own attorney, and if he acts in this manner when he represents himself, what can you expect he will do when he represents other parties and has to deal with third persons? The master has drawn a conclusion, which I confess I should have drawn myself, that there was no intention to carry the transactions out. He (Mr. Eaton) was drawing unwary vendors into a snare. The master has further found that these are steps in a systematic course of fraud, and in those cases in which Mr. Eaton did not succeed, it was because he was caught in his own snare.

Brett, J.—No one who has heard the evidence can doubt that this man has been systematically an ignominious and fraudulent cheat, and I hope there is no foundation for the proposition which Mr. Joyce glanced at, and did not attempt to support, that if a man bears such a character as that, and it is proved against him, he is allowed to remain on the roll of attorneys because he has not acted as an attorney. I hope there is no such rule, and until such a rule is proved by the most conclusive authority I, for one, should not listen to it. I think such a man is dangerous not only to an honourable professon but to any profession or trade in this kingdom, and I think it is highly proper that he should be struck off the roll of attorneys.

COURT OF EXCHEQUER.

(In Banco, before the Lord Chief Baron and Martin, Pigott, and Cleasby, BB.)

April 22.—*Mathews* v. *Collis and Another.*

This was an action against the defendants, a Birmingham firm of solicitors for negligence in not putting in force a writ of *capias* against a gentleman named Lawton, whereby he escaped to America, and the plaintiff had to follow him thither and effect a compromise of a debt of £7,000 due to him, losing more than one-half of that amount, as well as being put to very considerable expense and trouble. The plaintiff sued the defendants for the balance of his claim against Lawton, and the expenses he had incurred in attempting to enforce payment of the whole debt. The case was tried before Bramwell, B., and a special jury, on Feb. 9 (*ante* p. 316) when the plaintiffs obtained a verdict for £1,800.

Sir John Karslake, Q.C. (with him *Inderwick*), now moved for a rule for a new trial on behalf of Mr. Collis, on the ground that the damages were excessive. He stated that the learned Baron at the trial expressed his dissatisfaction with the verdict, and stayed execution.

Henry James, Q.C., moved for a similar rule on behalf of the other defendant.

Rules granted.

COURT OF BANKRUPTCY.

Lincoln's-Inn Fields.

(Before the Chief Judge.)

April 21.—*Re Zalmanson.*

Receiver—Sale of Debtor's Effects.

The debtor, Joseph Zalmanson, had filed a petition for arrangement under the 125th and 126th sections of the Bankruptcy Act, 1869, and on the 21st March a receiver was appointed who had possession of the debtor's effects, and had carried on his business—that of a grocer—until the present time. A first meeting had been held under the proceedings, but in consequence of the omission from the list of the names of certain of the creditors, it became necessary to hold a substituted meeting, which had been fixed for the 10th May.

Reed, for the receiver, now applied, upon affidavit, for an order for the immediate sale of the debtor's effects, stating that it would be of advantage to the creditors that the property should be forthwith realised. It appeared that the business was being carried on at a loss.

The Chief Judge held that inasmuch as no valid meeting of the creditors had been held he had no power by law to order a sale.

Application refused.

Solicitors, *Reed & Lovell.*

Re Tichborne.

Bankruptcy Act, 1869. *ss.* 125, 126, *rule* 260—*Injunction to restrain Bankruptcy proceedings—When disallowed.*

On the 6th April two petitions for adjudication of bankruptcy were filed by creditors against Sir Roger Charles Doughty Tichborne, Bart., which were returnable this day. Yesterday, the 20th April, the debtor filed a petition for arrangement under the 125th and 126th sections of the Bankruptcy Act, 1869.

Reed now applied *ex parte* on behalf of the debtor under the 260th of the new rules for an injunction restraining the petitioning creditors from proceeding further in bankruptcy. He stated that it would be of considerable advantage to the general body of the creditors that proceedings in bankruptcy should be restrained. The debtor was the claimant to large estates in Hampshire, and an adjudication might have the effect of staying a suit, now ripe for hearing, for the recovery of the property.

The Chief Judge held, that having regard to the delay which had taken place in presenting the petition for arrangement, it would be extravagant in the highest degree to grant the injunction asked for. A creditor had a legal right upon proof of the necessary requisites to obtain an adjudication against his debtor, and his Lordship could not

speculate as to what the result of that adjudication might be. The application might be renewed upon proper grounds, in case an adjudication was actually obtained against the debtor, but the Court could not hold out the slightest encouragement to him. At present no reason whatever seemed to exist why the application should be granted.

Application refused.

Solicitors, *Walter & Moojen.*

April 22.—*Re Harrison.*

Bankruptcy Act, 1869, *s.* 28—*Practice.*

In this case the creditors of the bankrupt had resolved to accept a composition of ten shillings in the pound payable by instalments in discharge of their debts; that the property should remain in the custody and under the control of the trustee until the instalments were fully paid; and that the bankrupt should in the meantime carry on the business—that of a dealer in jewellery. It was further resolved that the resolution should be carried out by a deed to be prepared for that purpose, and to be executed by all necessary parties, and that the bankruptcy should be annulled. This was a sitting for the public examination of the bankrupt.

Bagley, for the trustee, referred to the 28th section of the Bankruptcy Act, 1869, and applied for the direction of the Court with regard to the orders necessary for carrying out the intended arrangement.

The CHIEF JUDGE, after considering the terms of the section, was of opinion that, when all the requisites had been complied with, the duty was cast upon him to look through the deed and approve it. But, apart from the resolution, there must be a specific order to annul; and the two things could not be done simultaneously.

The deed was then produced, and his Lordship undertook to peruse it.

Solicitor for the trustee, *Lee.*

April 25.—*Re Cotterill.*

Bankruptcy Act, 1869, *s.* 13—*Petition for adjudication—Injunction to restrain sale of debtor's effects when adjudication not obtained.*

This was an application to restrain Messrs. Elphick, execution creditors, from selling the goods of a debtor, against whom a petition for adjudication had been filed. The petition was presented on the 8th April by a French creditor, the act of bankruptcy relied upon being the non-payment of the amount of a debtor's summons, and was returnable on the 2nd of June. Mr. W. Cotterill, who had been in practice as a solicitor, had absconded from England, and up to the present time the petitioning creditor had been unable to effect service of the petition. Prior to his disappearance from this country Cotterill resided in the neighbourhood of Dulwich Wood Park, and his furniture at the house was of considerable value. On the 14th February Messrs. Elphick obtained a judgment against the debtor for £87; they had since caused an execution to be levied upon his effects at Dulwich Wood Park; and the present application was made for the purpose of restraining a sale by the sheriff.

Bagley, in support of the application.

R. Griffiths, for the execution creditors, said the affidavit in support of the application was extremely vague, for all the deponent stated was that the debtor had formerly resided at the address given, and that the furniture and effects there, as he was informed and believed, were of considerable value. It did not appear from the affidavit to whom the property belonged.

The CHIEF JUDGE.—The affidavit might be more explicit, but it is clear that the execution can only be available against the effects of the debtor.

R. Griffiths submitted that it would be a hardship, if the execution creditors were entitled to the proceeds of the sale, that they should be restrained.

The CHIEF JUDGE said he understood that a receiver had been appointed; and, if the execution creditors were entitled to the fruits of their judgment, their rights would be preserved and protected; all their rights would be undisturbed, except their right to sell that property which might be theirs and might belong to the creditors generally.

Application granted.

Solicitors for the petitioning creditor, *Linklaters, Hackwood, & Addison.*

Solicitor for the execution creditors, *H. M. Phillips*, for *Hillman*, Lewes.

April 26.—*Re Goodbeheere.*

Bankruptcy Act, 1869, *ss.* 125, 126—*Petition under adjudication of bankruptcy—Transfer of file of proceedings—Practice.*

The debtors, Messrs. Goodbeheere, filed a petition for liquidation by an arrangement or composition under the 125th and 126th sections of the Bankruptcy Act, 1869, in the month of February last, and at the second meeting held under the proceedings the creditors resolved that the estate should be wound up in bankruptcy and not by liquidation. On the 11th inst. the debtors were adjudicated bankrupts.

Bund, for the petitioning creditor, now applied for an order that the affidavits and other documents, filed under the liquidation, might be used in the bankruptcy proceedings, and that they might be transferred, if necessary, from the liquidation file to the bankruptcy file. He stated that very great expense would be incurred if the creditors were required to make their proofs over again; for, under the liquidation, no less than 130 affidavits had been filed. The Court had power to make an order of the nature sought for in the case of the intervention of a liquidation after proceedings in bankruptcy, and he submitted that the converse case would apply. This was the first application of the kind in the Court, and several others were dependent upon it.

Mr. Hackwood, solicitor for the debtors, referred to the practice under the arrangement clauses of the Bankrupt Law Consolidation Act, 1849, and said that he was instructed to submit to any order the Court might make on the application.

The CHIEF JUDGE said it seemed very desirable to avoid the trouble and expense consequent upon making fresh affidavits, but it would be the duty of the trustee under the adjudication, when appointed, to look into the proofs, and, if he disputed any one, he must challenge it and investigate it. There must be one file now that the liquidation had ceased—one file, but two volumes perhaps.

Application granted.

Solicitors for the petitioning creditor, *Matthews & Matthews.*

Solicitors for the debtors, *Linklaters, Hackwood, & Addison.*

April 27.—*Re Gregory.*

Bankruptcy Act, 1869, *ss.* 125, 126—*Petition under—Duties of receiver—Disputed claim—Practice.*

The debtor in this case had filed a petition for liquidation by arrangement or composition under the 125th and 126th sections. A first meeting had been held and the second meeting had been appointed to take place early in May. At the first meeting a proof for £2,137 was put forward on behalf of a creditor, Hooper by name, and as it involved transactions extending over a period of twelve years, some of the items of the account being wholly disputed, the receiver was desirous of obtaining the direction of the Court as to what proceedings should be taken for the purpose of contesting the claim.

Mr. Wickens, solicitor, as appearing for the receiver, said his client stood in the position of a trustee for the whole of the creditors and he was desirous of adopting any proceedings the Court might sanction to be taken in the matter.

The CHIEF JUDGE.—The receiver has no right to institute any proceedings. He is not a trustee; his duty is simply to collect the estate of the debtor, and he has no right to make himself a party to any proceedings.

His Lordship refused to make any order at present, but intimated that if any difficulty arose at the second meeting, the matter might be disposed of by summons.

APPOINTMENTS.

Mr. LEWIS PRICE DELVES BROUGHTON, of the Calcutta Bar, has been appointed Administrator-General of Bengal, in succession to the late Mr. C. S. Hogg. Mr. Broughton was called to the bar at Lincoln's-inn in January, 1860, and was for a short time Recorder of Rangoon. He also fills the office of Registrar of the Archdeaconry of Calcutta, to which he was appointed at the beginning of the current year, and is the author of a work on the State of the Law in the Non-Regulation Provinces, noticed in our last week's issue.

Mr. JOSEPH GRAHAM, Acting Advocate-General at Calcutta, has been appointed a member of the Legislative Council of the Lieutenant-Governor of Bengal. Mr.

Graham was called to the bar at the Middle Temple in November, 1852, and fills the substantive appointment of Standing Counsel to the Government of India.

Mr. ALFRED CRICK FREEMAN, solicitor, of Maldon, Essex, has been elected Clerk to the Board of Guardians of the Maldon Union, in the room of William Codd, solicitor, resigned. Mr. Freeman was certificated as a solicitor in Trinity Term, 1863.

Mr. JOHN EVANS, solicitor, of Wrexham, Denbighshire, has been appointed by the Right Hon. Dr. Lushington, Master of the Faculties for his Grace the Archbishop of Canterbury, to be a Notary Public for the district of Wrexham, and a circuit of twenty miles.

Mr. RICHARD CLARKE, of Shrewsbury, Salop, has been appointed a Commissioner to Administer Oaths in Chancery.

GENERAL CORRESPONDENCE.

A COMPLAINT.

Sir,—A case was heard before Mr. Baron Channell on Saturday last at Westminster Hall in which I was the plaintiff's attorney, which turned out to be a most suggestive circumstance in favour of our branch of the profession having a right to plead in the superior courts. In autumn last my client was sued in the county court at a provincial town by an agister of cattle for the keep of two of his horses. He defended the action on two grounds: first, that his contract was not with the agister, but with another man, against whom he had a cross-demand; and secondly, that he had demanded the delivery of the horses of the agister before the cost of the keep accrued—there being no lien at law for agistment. In the county court he was defended by another attorney, but having come to me in the meantime upon other business he asked my advice upon this, and I quoted to him the cases in support of his contention that an agister has no lien except by express agreement, and put them down on paper. The provincial attorney, however, seemed to consider them as no value, and the judge was about to give a verdict in favour of the agister, when the defendant handed this note of the cases up to him, and he accordingly reserved his judgment, and eventually gave a verdict for the agister for the keep only up to the date of the demand for the horses. My client then instructed me to bring an action for the detention, which was heard on Saturday last; and partly in consequence of an illness with which he had been attacked that morning, which rendered his memory indistinct upon the facts, and partly through the manner in which the case was presented to the Court by counsel, my client was non-suited. The judge, however, took occasion while my client was giving his evidence to launch out into invective against me. Although I had been previously advised by both counsel that it was not necessary to have the county court summons or the previous attorney in court, the judge said I had been guilty of "gross negligence" in not having them there. They still insist that they were not necessary, and that the case could have been proved without it. The impression upon the jury and the public in court, however, was that my client was non-suited all through me, because I did not produce the county court summons. What fell from the bench therefore amounted to a most unwarrantable and damaging slander, and yet I have not only no redress, but I was unable to vindicate myself in court. My client entirely acquits me of all blame, but what I complain of is that I should be the victim of a most unjustifiable piece of petulance and impatience from the bench without having an opportunity given me of saying a word either in the witness-box in my defence or from the bar in explanation. Whatever were the merits of the case, the learned judge had no right whatever to condemn the conduct of an innocent party in such vehement terms without a hearing. If he had been a county court judge he would not ventured to have done so. He would not only have been responsible in damages, but he would have suffered severely from a repartee in public. It is only one more instance in illustration of the iniquitous system of precluding us from a right of audience. A SOLICITOR.

[We are unacquainted with the facts of this case, except through the medium of our correspondent's letter; but we can hardly think it probable that Mr. Baron Channell should have been guilty of a "most unjustifiable piece of petulance and impatience."—ED. S. J.]

PARLIAMENT AND LEGISLATION.

HOUSE OF COMMONS.

April 22.—The *Naturalization Bill* passed through committee.

The *Poor Relief (Metropolis) Bill* was read a second time.

The *Bridgwater and Beverley Disfranchisement Bill*.—The Attorney-General moved the second reading.—Mr. Neville Grenville hoped the measure would be postponed until hon. members could consider the reports.—Col. Stuart Knox moved to postpone the bill for three months.—After some discussion, the second reading was carried without a division.

The *Mines Regulation and Inspection Bill* was committed *pro forma*, and the next stage fixed for May 26.

The *Wine and Beerhouses Act Amendment Bill* was read a second time.

April 25.—*Mansions on Settled Estates*.—Mr. Stapleton obtained leave to bring in a bill to enable the owners of settled estates in England and Ireland to charge such estates, within certain limits, with the expense of building mansions as residences for themselves, as the owners of entailed estates in Scotland are already enabled to do by the Act of 10 Geo. 3, c. 51, known as the Mongomery Act.

Railway Accidents.—Mr. Denison moved for a select committee to inquire into the law and the administration of the law of compensation for accidents as applied to railway companies. When he addressed the House last session upon this subject he did so entirely upon his own responsibility; but since then he had had the opportunity of conferring with the heads of almost all the railway companies, and he believed that in making this motion he now had their unanimous concurrence. The grievances of which the companies complained had been set forth in the petitions which he had presented upon the subject. It was urged that, for the benefit of the public, and in accordance with their requirements, they had undertaken unusual and special risks; that they had undertaken to carry passengers at a high rate of speed; that all those extra and special risks were by the law, as it stood, made to fall upon the railway companies, while they were compelled not only to exercise due care and vigilance, but to insure, in case of accident, the social position of the passengers injured. If it were argued that the rate of speed was within the control of the companies, he would ask, what would be the feeling in the minds of the public if the railway companies for one month only were by arrangement among themselves to reduce their speed to twenty or twenty-five miles an hour? Complaint on the subject would be general throughout the country, and yet they were subjected to a law which might have answered very well when the conditions of society were entirely different, when the *maximum* rate of speed was ten miles an hour, and when the conveyance was under the control of a single individual. He had no doubt, if this committee were granted, that he should be able to adduce such a body of evidence as would convince any fair and reasonable man of the existence of a very serious grievance. The report of the Royal Commission, of which the Chancellor of the Exchequer and the First Commissioner of Works were both members, by whom this subject had been considered, recommended, among other things, that railway companies should be held responsible when the accidents resulted from their negligence; that the amount of compensation should be regulated by the class by which the person injured was travelling, but that any passenger should, on the payment of a small extra tariff, be entitled to claim to insure for a higher sum; that claims for compensation should be made within a limited period, and that the companies should have a right to institute medical examinations in cases where injuries were alleged to have resulted from accident. There could be no doubt that railway companies suffered much from the prejudice of juries, and the latter so frequently made awards which would carry costs, that railway companies, rather than run the risk of being saddled with the costs of both parties, submitted in many instances to claims which they knew to be excessive, and which they believed to be fraudulent.—Mr. Hinde Palmer could quite understand that the hon. gentleman had consulted all the heads of the railway companies and obtained their concurrence for the motion he had made. It was not in behalf of the com-

panies, however, but of the public that he moved an addition to the hon. gentleman's motion. At present the great and almost the only guarantee which the public had for the safety of passengers and for insuring the exercise of caution and care on the part of the railway companies was the heavy damages to which the companies were liable when accidents occurred; and if the object of the motion was to cut down the amount for which the companies were responsible it would so far diminish the guarantee which the public possessed. It was a necessary consequence therefore, that there should be an inquiry as to whether certain means could not be adopted to prevent these accidents altogether. He moved as an addition to the motion the following words, "and also to inquire whether any and what precautions ought to be adopted with a view to prevent accident."—Sir H. Selwin-Ibbetson, in seconding the amendment, said that during the last three years the injuries and deaths from collisions, pure and simple, were 1,876, while from all other causes whatever they were only 595. That was a strong case for trying whether these accidents could not be prevented. If the Government laid down certain rules by which they should expect the companies to conduct their traffic, these companies on complying might require that their liabilities to some extent should be diminished. The recommendations made by the Government inspectors for the prevention of accidents had very largely increased during 1869; for in that year there were as many as 20 reports from those gentlemen on railway collisions, in which they recommended that the block system should be adopted on the line as the only adequate security against accidents. It was a question whether the Government should not have some power to enforce those suggestions.—Mr. Read objected to that question being considered with reference to the interest of railway directors, as the most important interest concerned in the matter was that of the public.—Mr. Shaw Lefevre said that, in assenting to the motion, he must not be taken to assent to the arguments and conclusions of the hon. member. The subject was a wide one, and involved other considerations. He had, no doubt, made out a strong *primâ facie* case on behalf of the railway companies; they often suffered injustice at the hands of juries; they were mulcted very heavily in court. Cases of a monstrous character sometimes occurrrd, such as that mentioned last September, when a lady obtained £1,200 because she sprained her foot in tripping over a hole in a carpet at a railway station. Then there were cases of another kind, such as that of the late Mr. Pim, whose family obtained £12,000 damages against the Great Northern Company because he had neglected out of an ample estate to make provision for his younger children, and was killed in an accident. It had seemed to him that the Courts, in admitting considerations as to the future advancement of a claimant, the possibility of his rising in a profession had opened the door to claims of an almost exaggerated character; but hard cases did not always mean bad laws and bad legislation, and they must look rather further for the effect of the general working of the law. The whole amount paid by the companies, though large, formed but a small percentage of the gross receipts. Then, again, the principle on which the companies were responsible was one of very wide application. The responsibility of the employer for the negligence of his servant was a principle which ran through our whole jurisprudence, and in some respects it seemed to be a harder case that the owner of a carriage should be responsible if his coachman negligently drove over a man in the streets than if the railway company having engaged to carry a passenger safely, an accident occurred to him through the negligence of their servants. Shipowners, dock companies, and a hundred other such companies were subject to the same law. Another consideration was the extent to which the present law operated as an inducement to railway companies to adopt all reasonable precautions to prevent accidents. It had been the settled policy of Parliament hitherto not to interfere in the management or working of railway companies, but to hold the companies responsible for their negligence. In the case of ships Parliament had interferred to a greater extent and in a variety of ways, and in introducing the Merchant Shipping Bill he relied upon the same principle. He should himself be unwilling to lessen in any material way that sense of responsibility on the part of those great carriers over whom they had so little control; and if they were to do so to a small extent, it would be desirable to consider whether some greater control ought not to be exercised over them with a view to the prevention of such accidents. Perhaps means might be devised for preventing those grosser cases without really diminishing the responsibility of railway companies. The Royal Commission, while upholding the importance of not relieving companies of the responsibility, were of opinion that, on the one hand, companies should be absolutely responsible for all injuries to passengers not due to the personal negligence of such passengers, and second that their liability should be limited within a *maximum* amount. They did not state what such *maximum* should be, but he apprehended, from other portions of their report, that it would be a high *maximum* as compared with anything that the hon. member had suggested. The principle aimed at had already been to a very limited extent conceded by this House in the case of two or three metropolitan companies, which were compelled to run workmen's trains at a very low price. Parliament had also limited the compensation in the event of accident to £100, and had provided special arbitration clauses, which were much valued by the companies.—The motion, with the addition of the words proposed by Mr. Palmer, was then agreed to.

Payment of Rates by Charities.—Mr. Muntz, obtained leave to bring in a bill to relieve churches and elementary schools from payment of local rates.

April 27.—The *Marriage with a Deceased Wife's Sister Bill.* Committee.—Mr. Walpole moved, as an amendment to the motion for going into committee, "That it is inexpedient to alter the law of marriage, which has existed in this country from time immemorial, as to the degrees of kindred and affinity within which marriages are permitted, until Parliament has considered the whole question whether degrees of affinity should be put on a different footing from the corresponding degrees of consanguinity." The social system of the country, founded on the law of marriage, had existed from time immemorial, and should not lightly be disturbed. It should not be lawful to marry within the family circle. Marriage as revised and purified by our Saviour, made the two so entirely one that each had all the other's obligations, &c. He could not believe there was any Divine command which would, even by inference, permit the proposed marriage. The present law had existed in Christendom nearly fifteen centuries. And the law lords had held that the law was what it had been from time immemorial, and could not be got rid of by going abroad. In Scotland it was an article of faith. It was said the aunt was the natural protectress of the orphans, but was she not a much better one as it was? It would be different when she became a stepmother; many sisters would decline the care altogether after the alteration of the law. It was false to say that the change was desired by the poor; it was the rich who wanted it. It was said that natural freedom allowed everyone to marry all those to whom he was related only by affinity. But could two brothers marry the same woman, or the uncle the niece? How could the marriage be sanctioned between a man and two sisters, and not between a woman and two brothers? If the law of marriage was once broken up the relaxation must be carried much further than the Bill proposed.—Mr. Monk seconded the amendment.—Mr. Gladstone observed that, excepting the Established Church and the Presbyterian communions, there was no religious community with whom it was a matter of conscience to maintain the prohibition which the present Bill proposed to remove; but, on the contrary, so far as the religious communities other than the Established Church and the Presbyterians had expressed a judgment, that judgment was adverse to the prohibition. He had for many years felt the pressure of the argument derived from the principle of general toleration and the difficulty of enforcing the rule of one particular religious denomination on the members of other denominations who denied its authority. The narrow ground taken by the amendment was that the introducer of this bill should not be permitted to raise a question on a particular point in the table of prohibitions, unless he was prepared to raise a similar question with respect to a multitude of other prohibitions. The introducer of the bill had proceeded on the practical view of this matter. There was diversity of opinion on it among all political parties and religious denominations. Many bishops and clergymen of high standing were in favour of the legalisa-

tion, notably the Dean of Chichester, whose opinion carried very great weight. But the amendment asked them to leave the practical ground and grapple with an abstract question—the question whether a distinction was to be drawn between degrees of affinity and consanguinity. The argument of natural freedom had been used, but for his part he preferred to avoid all arguments of an abstract nature in a case of this kind. If he were told that the proposition to legalise marriage with a deceased wife's sister ought not to be considered apart from the general question of consanguinity and affinity, his answer was that that proposition was refuted by facts, and one of the facts was that for a whole generation they had been contending on the matter of this bill. With respect to natural freedom, there were, no doubt, cases in which limits must be placed on its exercise, for no one would hesitate to say that what was termed natural freedom, when it exceeded certain limits, might be called unnatural freedom; but, on the other hand, it was undeniable that this system of prohibitions had been pushed much too far, partly from an overstrained rigour of opinion, and partly sometimes from mere fancy, as when prohibitory degrees had been founded on sponsorship and baptism. The proposition now made was made within most restricted limits, had been sustained by the continuous opinion of a large number of persons for twenty or thirty years, and had received, on almost every occasion, and sometimes under remarkable circumstances, the sanction of the representatives of the people. It was now their duty to remove out of their way this stumbling block and cause of contention. He hoped that this would not be allowed to degenerate into a class question. He supported the bill not merely on the ground of the limited argument in favour of liberty, but also because, upon the whole, he believed it was for the religious and moral advantage of the mass of society that they should give up a restriction which was not sustained by the public conscience and conviction in the times in which they lived.—Mr. Beresford Hope said the true province of legislation and government in matters where *salus populi* was the *suprema lex*, was to administer the *suprema lex* where the varying conflicts of men's opinion would only embroil and never set at rest. No doubt the polygamy of Utah was an extreme case, but as such it was set up for our warning. It showed that there was a point at which every sovereign commonwealth must intervene between man and his opinions, between man and his passions, and lay down some general law for the common safety—some general marriage law to govern the whole community. The marriage law of England was a very plain and simple one. It might be right or wrong, but it aimed at the utmost extent of liberty to be given in the matter of marriage consistent with what was believed to be an exponent of the voice of God. This bill would allow one class of marriages before the incumbent and another before the civil officer. That at once would set up two classes of marriages, breaking down the simplicity and uniformity of the system of conjugal relations in this land. What was this but a gigantic system of dispensations in favour of a particular class of marriages? If once they legalised marriage of a man with his deceased wife's sister, marriage between an uncle and niece and between a nephew and aunt would follow. It would be a question of time, and a short time too.—Mr. Denman thought the principle upon which the bill was based was to be found in the New Testament, and it was that of removing an insupportable restriction, a burden the weight of which the people were not able to bear. So far as he could form an opinion from what had been written by learned divines and Jewish rabbis, the Mosaic law was rather in favour of the marriages in question than against them. The present law occasioned great hardship and much immorality and concubinage without producing any benefit.—Sir Roundell Palmer said it was shocking to his mind that there should be one law for England and another for Scotland and Ireland; therefore, if the legislation was right, it should extend to Scotland and Ireland. He dissented from the notion that the subject should be dealt with piecemeal, and had a strong conviction that it should be dealt with as a whole. It should be shown where the line was to be drawn. He thought the bill a Levitical and Mosaical one, because the advocates of the change founded their arguments on one obscure text, saying that that did not forbid the marriage, and therefore it should be legalised. He protested strongly against the retrospective provisions of the bill. No doubt those who supported it would think it of little value unless it were retrospective, because the whole object which they had in view was to legalise their illegalities. But to make the bill retrospective would be, on such a subject as this to encourage a contempt for the law; to teach people that they might break it with impunity, trusting not only to get it changed, but to get that change made retrospective. He then argued against the change on social grounds.—Mr. Thomas Chambers replied. It was certainly not true that the law had been the same all through our historical times. Nothing had been adduced to prove that affinity and consanguinity were identical.—On a division the amendment was lost by a majority of 184 to 114.—An amendment proposed by Mr. J. G. Talbot, to deprive the measure of its retrospective operation, was negatived by a majority of 177 to 90.—The remaining clauses were agreed to, and the bill ordered to be reported.

The *Mortgage Debenture Act* (1865) *Amendment Bill* was read a second time, Mr. West explaining that it was a measure to cure certain defects in the bill of 1865 for the issue of Mortgage Debentures secured on land.

Admiralty District Registries.—A bill by Mr. Graves, for establishing admiralty district registries, was read a first time.

April 28.—The *Irish Land Bill.*—Committee. Adjourned debate on Mr. Headlam's amendment to clause 3 to add a proviso "that nothing in this Act contained shall exonerate a tenant under lease from the duty of giving up peaceable possession of the demised land at the end of the term, nor shall a landlord resuming possession at the termination of a lease be deemed to be disturbing a tenant within the meaning of this Act." Mr. Headlam said his amendment had been much misrepresented. It was not contrary to the principle of the bill.—The Attorney-General, while exonerating Mr. Headlam from all imputation of anything like *mala fides*, said the amendment was distinctly contrary to the principle of the bill. The scheme of the clause was that with respect to all future tenancies from year to year, and all leases for terms less than thirty-one years, the landlord should, on resuming possession, pay a certain sum which might be called damages for the eviction or disturbance of the tenant. The amendment proposed that nothing should exonerate a tenant holding under a lease from the duty of giving up peaceable possession. Mr. Headlam tried to prove that it was the duty of a tenant under a lease to give up possession at the end of the term, but that it was not his duty in the same sense if he held the land from year to year, and received a notice to quit. The distinction was illusory, without foundation in law, and altogether idle.—Ultimately the amendment was withdrawn.—Sir J. Gray carried, without division, an amendment removing "conacring," without the consent of the landlord, from the list of offences which are to deprive a tenant of his right to compensation.—An amendment by Mr. Kavanagh, relieving from the penalties of subletting the letting of a portion of land not exceeding half an acre to agricultural labourers *bona fide* required for the cultivation of the holding, was opposed by Mr. C. Fortescue and ultimately afterwards rejected by a majority of 284 to 218.—Mr. Kavanagh carried an amendment, with the assent of the Government, limiting this privilege to holdings of twenty-five acres and upwards in extent of tillage land.—Mr. C. Fortescue introduced a further limitation to the effect that the number of cottages provided for by these sublettings shall not be more than one for every twenty-five acres of tillage land.—Mr. Peel proposed to require by express words that the labourers shall actually be employed on the holding, but this proposal was negatived by a majority of 270 to 210.—Having now reached the end of subsection 2 of clause 3, the committee was again adjourned.

The *Naturalization Bill.*—On the order for considering this bill as amended, Mr. Vernon Harcourt moved to omit clause 4 and insert the following clauses:—"From and after the passing of this Act no person born within the dominions of her Majesty of an alien father, which person at the time of his birth became under the law of any foreign State a subject of such State, shall be deemed a British subject by reason only of his birth within the dominions of her Majesty." "From and after the passing of this Act, persons born out of the dominions of her Majesty whose fathers are at the time of their birth British subjects shall be deemed British subjects; provided

that no such persons shall be deemed British subjects by reason only of their birth where their fathers have resided within the dominions of her Majesty." "Repeal so far as they are inconsistent with this clause the provisions of the following statutes:—25 Edward 3, stat. 2; 7 Anne, c. 5; 4 Geo. 2, c. 21; and 13 Geo. 3, c. 21." Why should they give to the children and grandchildren of foreigners, merely because they were accidentally born in this country, and whose mothers, perhaps, had been in England only for a few days or a few weeks, the privileges of British subjects, which they might not desire?—Sir Roundell Palmer said these proposals would, if adopted, introduce an element of confusion into those relations which the convention aimed at adjusting. The double allegiance could not be completely got rid of without the aid of other nations. The commissioners thought it important to have such a rule as would at once get rid practically of difficulties with other countries abroad, and at the same time not introduce any unnecessary difficulties at home. They had to deal not only with the case of transitory foreigners, but with the more numerous cases of children born in this country—the children of persons long resident here for purposes of trade, foreigners by birth, and, perhaps, still by nationality—persons, the great majority of whom had not thought it worth while to get letters of naturalization; and if, for the sake of any uniform theory, the *status* of these children was made to follow the *status* of the parents as to nationality, a practical hardship and disability would be inflicted upon a large and important class of persons who were most valuable British citizens. If the proposal were adopted that after the passing of the Act "no person born within the dominions of the Queen of an alien father, which person at the time of his birth became under the law of any foreign State a subject of such State, shall be deemed a British subject by reason only of his birth;" it would be necessary to inquire into the law of all foreign countries before you could determine whether a person was or was not a British subject. To be obliged for all purposes of Parliamentary and municipal franchise to ascertain whether the father at the birth of the child was a citizen of a foreign country, and to determine this point not by our own law, but by the law of other nations, would introduce the greatest uncertainty. There was no simple uniform rule in other countries. These were reasons for not hastily changing the law. All practical purposes were answered by the clause as it stood.—The amendment was negatived.—Mr. Charley proposed to omit the words "real and," and to insert "and real property of every description may be taken, acquired, held and disposed of by an alien becoming such in pursuance of this Act."—The Solicitor-General said it was impossible for the Government to accede to the amendment. If it were adopted, persons disavowing British nationality, who might have gone to America and returned to this country for purposes for which some persons did return, would have a right to acquire real property which would be denied to a French nobleman.—The amendment was then negatived, and the report of amendments in the bill agreed to.

Conventual and Monastic Institutions.—After some discussion, the debate on this subject was again adjourned, on the understanding that it should be disposed of finally on Monday.

LAW STUDENTS' JOURNAL.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

Easter Term, 1870.

QUESTIONS.

I.—Common and Statute Law and Practice of the Courts.

1. If an infant be a party jointly with an adult to a bill of exchange; are both, or either, liable to be sued on the bill?

2. Where an infant is not liable on a contract, can he be made liable thereon in an action in form ex delicto?

3. A bill or note in which no time of payment is specified,—when is it payable?

4. Is a tender, after a bill of exchange becomes due, a defence for the acceptor in an action by the indorsee?

5. The proprietor of a lighter agrees with A who works it, that in consideration of his labour, he shall receive half the gross earnings. Does this constitute a partnership?

6. Would a contract by A not to marry within six years be a valid contract at common law?

7. Can money lent for the purpose of gambling in a country where gaming is not illegal be recovered in the courts of this country?

8. If an agent contract under seal in his own name for his principal, can the principal sue on the contract?

9. Where an authority is given to three persons, if one exercised the authority would the principal be bound?

10. Is a wife's authority to order necessaries revoked by the death of her husband, although at the time of the order the wife and tradesman were ignorant of the death of the husband?

11. What is a bottomry bond? Define it.

12. Who possesses the right to stop goods in transitu?

13. When does the right to stop in transitu cease?

14. If A guarantees the due payment of a bill of exchange, is A liable for the interest if the bill be not paid at maturity?

15. What is the distinction between inland and foreign bills of exchange as to protest?

II.—Conveyancing.

1. On the decease of a mortgagor, is a mortgage debt ultimately payable by the person to whom he may have devised the mortgaged estate, or is it payable by the executor of the mortgagor out of his personal estate? What alteration of the law has been made of late years in this respect?

2. If a man dies intestate leaving two daughters, the son of a deceased daughter, and the grandson of another deceased daughter, how does his real and personal property respectively descend?

3. If a man dies intestate leaving a sister, three children of a deceased sister, and a grandson of another deceased sister, how does his real and personal property respectively descend? And how would they descend if the sister surviving the intestate was only of the half-blood?

4. If an estate comprising freeholds of inheritance and leaseholds for years is limited to a man and the heirs of his body, what interest does he take in the freeholds and leaseholds respectively?

5. Some covenants are said to run with the land. Explain the expression, and illustrate its meaning by examples.

6. What difference is there in covenants for title—(1) by a vendor who acquired his estate by descent, and by purchase respectively; (2) by a mortgagor, and (3) by a mortgagee selling under a power of sale?

7. Explain what is meant by a mortgagee being entitled to "tack," and illustrate circumstances under which he can do so.

8. State the several points *essential* to constitute a contract for sale of land.

9. Out of what lands is a widow entitled to dower—(1) if married previously to 1834, and (2) if married subsequently to that year? What was the old, and what is the present method of barring dower.

10. State the mode by which a married woman may at the present day bar an estate tail in reversion.

11. Explain the operation which a fine had upon an estate tail, also a common recovery, and show the practical differences between them as modes of assurance.

12. Draw an outline of a deed suitable for a marriage settlement of £5,000 on each side, including a power to invest in the purchase of real estate.

13. State generally what succession duty is, in respect of what property it is payable, when it arises, how it is calculated, how it is payable, and whether the date of the instrument under which it takes effect as being before or after the Succession Duty Act in any way affects the liability.

14. What is the consequence both as regards the will, and a legacy bequeathed by it, if one of the attesting witnesses is the husband of the legatee?

15. If under a covenant not to assign except with the consent of the lessor in writing, such consent is given, is the assignee of the lessee again entitled to assign without a fresh consent by the lessor? What alteration of the law has of late years taken place in this respect?

III.—Equity and Practice of the Courts.

1. What is the statute which governs the present system of uses and trusts in land, and what is the short effect of it?

2. What classes of persons may institute suits for the administration of the estate of testators or intestates?

3. In what cases does the wife's equity to a settlement arise?

4. Can a married woman dispose of her reversionary equitable interest? And has any, and what, change in the law in this respect been effected by recent legislation?

5. What is the rule of courts of equity with regard to dealings between persons in confidential relations, such as attorney and client, trustee and cestui que trusts?

6. State some of the cases in which courts of equity decree a dissolution of a partnership at the instance of one of the partners.

7. In suits for the specific performance of contracts for the sale and purchase of land, is the time fixed for the completion of the purchase considered material?

8. Where property is limited to the separate use of an unmarried woman independently of any husband whom she may marry, and with a restraint on anticipation, and she marries, becomes a widow, and marries a second time,—can she dispose of such property, before her first marriage, or while a widow, or during either of her marriages?

9. If a married woman, entitled to property for her separate use, execute a bond or sign a promissory note, is her separate estate liable for the debt?

10. If a settlement or will contain no power to sell or grant leases, and a sale or a lease be required, how would you proceed to obtain the requisite power?

11. Where a testator bequeaths property to A, and also bequeaths to B something which belongs to A, on what terms can A claim his legacy?

12. If a father makes a will bequeathing a legacy to a child, and afterwards settles a sum of money on the marriage of such child, and then dies, is the child entitled to the legacy?

13. When a cause is at issue how is the evidence taken?

14. State in what cases proceedings in the Court of Chancery may be commenced by summons at chambers?

15. What is the effect of the enrolment of a decree with reference to a rehearing or appeal?

IV.—Bankruptcy and Practice of the Courts.

1. Specify the several persons who are particularly exempted from the definition of the term "trader," under the Bankruptcy Act, 1869.

2. Within what time after an act of bankruptcy must a petition for adjudication be presented?

3. Can a creditor holding security be a petitioning creditor, under any, and what terms?

4. By whom can a proof of debt be made?

5. What power has the court over any person known or suspected to have in his possession any of the estate or effects of a bankrupt?

6. When is a creditor in any bankruptcy, arrangement, or composition, to be guilty of a misdemeanour, and what punishment is he liable to?

7. Define the rights of a landlord for recovery of rent in case of the bankruptcy of his tenant.

8. What are the provisions regarding persons having privilege of parliament under the present Bankruptcy Act?

9. In whom does the declaration of a dividend vest?

10. When may an order of discharge be applied for by a bankrupt?

11. What is the status of a bankrupt who has not obtained his order of discharge?

12. A settlement of property by a trader is void against trustee if settlor becomes bankrupt within two years after date of settlement, except in certain cases,—what are these cases?

13. What are the first steps to be taken by a debtor desirous of arranging with his creditors by paying a composition?

14. What statement must a debtor produce to his creditors on a proposed liquidation by composition?

15. For the purposes of composition in calculating a majority, how are creditors to be reckoned whose debts are under £10?

V.—Criminal Law and Procedings before Magistrates.

1. Define a conspiracy.

2. Husband and wife are indicted together with a third person for conspiracy,—the latter is acquitted. Can the two former, or either of them, be convicted? Give the reasons for your answer.

3. In what cases can one person only be indicted for a conspiracy, and what averment is required?

4. Can an indictment for conspiracy be supported, although the object for which it was entered into be not effected?

5. What is a libel? And is it necessary in order to constitute a libel, that anything criminally or morally wrong should be imputed to the partly libelled?

6. Can a libeller be prosecuted criminally, as well as civilly and why?

7. Is the truth of a libel a defence to a criminal prosecution?

8. Is an attorney liable to any, and what punishment for giving notice that criminal proceedings will be taken unless his client's demand be settled?

9. State the nature of the offence of "champerty."

10. If on the sale of real or personal estate the solicitor of the vendor knowingly omits from the abstract of title any deed or instrument material to the title, of what offence is such solicitor guilty, and to what punishment would he be liable on conviction?

11. Will ignorance of law in any, and what, case excuse a person who has committed an offence?

12. What persons are held in law to be incapable of committing crimes or excused in respect thereof?

13. In what cases are married women protected from punishment for criminal offences, and in what are they not so protected?

14. What is the distinction between a principal in an offence, and an accessory?

15. What is an accessory before and what an accessory after the fact?

ANSWERS TO QUESTIONS AT THE FINAL EXAMINATION FOR HILARY TERM, 1870.

I.—Common and Statute Law and Practice of the Courts.

(By E. A. C. Schalch, Barrister-at-Law.)

1. The adult can be sued but not the infant. An infant is not liable upon a bill of exchange to which he is a party although it was given for necessaries. But such bill is good against the other parties thereto.

2. No.—A person who has contracted with an infant cannot convert anything that arises out of that contract into a tort, and so enforce the contract through the medium of an action of tort. An infant cannot be made liable upon a contract by changing the form of action into one *ex delicto*. An infant is, however, liable for his torts, which are independent of contract even where the tort is to some extent connected with, although not founded upon a breach of contract (*Burnard* v. *Haggis*, 11 W. R. 644).

3. It is payable at once, and a writ may be issued upon it without any prior demand, as it is the duty of a debtor to seek out and pay his creditor.

4. No.—The tender to be good must be made on the day the bill becomes payable. But the drawer of a bill has a reasonable time after notice of dishonour to pay the amount of the bill.

5. No.—Even at common law such an agreement would not *necessarily* constitute a partnership, although it might, of course, be strong evidence of a partnership. But now 28 & 29 Vict. c. 86, s. 2, has expressly provided that "no contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking, shall of itself render such servant or agent responsible as partner therein, nor give him the rights of a partner."

6. *Primâ facie* it would not be a valid contract, although particular circumstances might possibly make it valid. Every contract in restraint of marriage is *primâ facie* illegal (*Hartley* v. *Rice*, 10 East. 22).

7. Yes.—(*Quarrier* v. *Colston*, 1 Phill. 147). The general rule is that a contract must be governed as to its interpretation, validity and effect by the law of the county where it is made. This rule is subject to this, that "when a court of justice in one country is called on to enforce a contract entered into in another country, the question is not only whether or not the contract is valid according to the law of the country in which it is entered into, but whether or not it is consistent with the law and policy of the country in which it is to be enforced, and if it is opposed to those laws and that policy the Court cannot be called upon to enforce it" (*Hope* v. *Hope*, 5 W. R. 387).

It was held, however, in *Quarrier* v. *Colston* that money lent for gambling in a country where gambling is not illegal could be recovered here. This decision, it may be noticed,

was before 8 & 9 Vict. c. 109, which has made all contracts by way of gaming or wagering void.

8. No.—A principal cannot sue upon a contract under seal made in the agent's name only, for it is treated as a contract merely between the parties named in it, although one is known to be acting as agent. This rule is peculiar to contracts under seal and does not apply to simple contracts by writing or word of mouth.

9. No.—The general rule is that where an authority is given to several they must all join in exercising it, otherwise the principal will not be bound.

10. Yes.—The husband's death at once puts an end to the authority, whether or not his death is known to his wife or to the tradesman. In such a case the husband's executors are not liable for necessaries supplied after the husband's death (*Blades* v. *Free*, 9 B. & C. 167); nor can the tradesman recover the price of the necessaries so supplied in an action against the widow (*Smout* v. *Ilbery*, 10 M. & W. 1).

11. Bottomry is an agreement entered into by the owner of a ship or his agent, whereby, in consideration of a sum of money advanced for the use of the ship, the borrower undertakes to repay the same with interest if the ship terminate her voyage successfully, and binds or hypothecates the ship for the performance of his contract. The instrument by which this contract is made is called a bottomry bond, sometimes a bottomry bill.

12. The unpaid vendor of goods is the person entitled to stop them *in transitu*. A mere surety for the price of the goods cannot stop them, but a consignor of goods to be sold on the joint account of himself and the consignee may stop them.

13. The right of stoppage *in transitu* ceases the moment the goods have reached the actual or constructive possession of the consignee, who may require the goods to be delivered to him at any stage of the journey. As a general rule the goods are *in transitu* so long as they are in the possession of the carrier, *and also* while in any place of deposit connected with their transmission or delivery.

14. Yes.—A person who guarantees the due payment of a bill of exchange by the acceptor, is liable for interest thereon if not paid when due (*Ackerman* v. *Eprensperger*, 16 M. & W. 99).

15. A foreign bill if dishonoured should be protested. Inland bills require no protest when dishonoured; they are sometimes *noted* for non-payment, which is not, however, necessary.

II.—Conveyancing.

(By H. N. Mozley, Barrister-at-Law.)

1. On the decease of a mortgagor, the mortgaged debt is ultimately payable by the person to whom he may have devised the mortgaged estate, in cases falling under Mr. Locke King's Act of 1854 (17 & 18 Vict. c. 113), which provides to the above effect in cases where *all* the following conditions are satisfied:—(1.) Where the deceased may have died after the 31st of December, 1854; (2.) where the mortgaged property is land or other hereditaments (*i.e.*, real property); (3.) where the deceased has not by deed or other document expressed his intention to the contrary. Independently of the above Act, where a mortgaged estate is devised *cum onere*, the mortgage debt is payable by the devisee. And where the debt was not contracted by the person who last died seised or entitled, but by some other person from whom he took it by descent or devise, or by some other person from whom he purchased it, or from whom his vendor derived it, his personal estate would not be primarily liable for the payment of the debt, unless he had done something to raise a new and independent contract between himself and the mortgagee.

In cases other than those above-mentioned, the general personal estate of the testator is primarily liable for the payment of the mortgage debt (See Smith's Manual of Equity, 7th ed., pp. 263—266).

2. The man's real estate in this case will be divisible equally in fourths between his surviving daughters, and the son and grandson of his deceased daughters respectively.

For the four daughters, if living, would have taken equally, and the son and grandson of deceased daughters stand in the place of their mother and grandmother respectively.

His personal property would descend in the same way by the Statutes of Distribution. (It is assumed that the intestate does *not* leave a widow surviving him.)

3. In this case, by section 5 of the Inheritance Act (3 & 4 Will. 4, c. 106), the descent, as regards the real property, is traced from the parent of the deceased; and, therefore, the real property is divisible equally in thirds between (1.) the surviving sister; (2.) the issue (in manner stated below) of the deceased sister who leaves three children; (3.) and the grandson of the other deceased sister.

The one-third share which passes to the issue of the deceased sister who leaves three children, will pass to the eldest or only son, if one or more of the three children be a son or sons; if they are all daughters, they will take the one-third share in equal thirds, or each will take one-ninth of the real property of the intestate.

The personal property of the intestate will be divisible equally in moieties between (1.) the surviving sister, and (2.) the three children of the deceased sister who leaves three children, who will each take one-sixth of the personal property of the intestate. The grandson of the other deceased sister will be excluded from a share in the personalty, as, beyond brothers' and sisters' children, no right of representation belongs to the children of relatives with respect to the shares which their deceased parents would have taken (Williams on Personal Property, 7th ed., pp. 361—2).

If the sister surviving the intestate was only of the half-blood, this would make no difference as regards the personalty; but she would be excluded from the realty.

4. A gift of freeholds to a man and the heirs of his body creates in him an estate tail; but an estate tail cannot be held in personal property, and a gift of personal property of any kind, and therefore of leaseholds, to a man and the heirs of his body will simply vest in him the property given (Jarman on Wills, 3rd ed., vol. ii., p. 534; Williams on Personal Property, 7th ed., p. 265).

5. Where either of the parties to a covenant has an interest in land, and the covenant is such that the benefit or burden of the covenant passes wholly or partially to any one who may, for the time being, be similarly interested in the land, the covenant is said, *pro tanto*, "to run with the land."

The following (among many other) are instances of covenants running with the land.

Covenants for title pass by the common law to the assignees of the land, who may maintain actions upon them against the vendor and his real and personal representatives.

Again, where the owners of land granted a watercourse through it to a man and his heirs, and covenanted for themselves, their heirs and assigns, to cleanse it, this covenant was held to bind the land in the hands of an assignee, for it was a covenant that ran with the land (*Holmes* v. *Buckley*, Prec. Ch. 39; Sugden, Vend. & Pur. ed. 1862, p. 593).

On this subject the reader is referred to Lord St. Leonard's work on Vendors and Purchasers, c. 15, s. 1, pp. 576—599 in the edition of 1862.

6. A vendor seised in fee covenants—(1.) That he is seised in fee; (2.) that he has power to convey; (3.) for quiet enjoyment by the purchaser, without disturbance by the vendor or any one claiming through him, his ancestors or testators; (4.) for freedom from incumbrances; (5.) for further assurance (Sugden, Vend. & Pur. ed. 1862, p. 573; Davidson, Conv., vol. 2, p. 184). These covenants do not guarantee a title against all the world, as covenants for title in a mortgage deed do. The purchaser is entitled to name specifically the persons whose acts are to be guarded against, and to carry back the covenant to the last occasion on which covenants were entered into on a mortgage or purchase for value (Sugden, Vend. & Pur. p. 574; Davidson, vol. 1, p. 195 (*b*), and vol. 2, p. 184).

If the vendor claim by purchase, in the common sense of the word, his covenants are confined to his own acts and those of persons claiming under him (Sugden, Vend. and Pur., p. 574; Davidson, Conv., vol. 1, p. 195, note (*c*), and vol. 2, p. 185).

The covenants for title in mortgages and securities for money are the same as in conveyances for sales, except that they are absolute instead of qualified. The covenants by a mortgagor are unrestricted, and amount to a warranty against and for the acts and omissions of the whole world.

A mortgagee selling under a power of sale merely covenants that he has done no act to encumber the property See Sugden, Vend. and Pur., p. 69; Davidson, vol. 2, p. 236, note (*l*).

7. Where a first mortgagee has obtained a conveyance of the legal estate, and the estate is afterwards mortgaged to a second and third mortgagee, &c., the third (or any subsequent mortgagee), if he has made his advance of the money without notice of the second mortgage (or any other prior mortgage), may *tack* (as it is said) his mortgage to the first, and so postpone the intermediate incumbrancer (*Brace* v. *Duchess of Marlborough*, 2 P. Wms. 491; *Peacock* v. *Burt*, Coote on Mortgages, App. p. 569; Williams on Real Property, part 4, c. 2).

8. The points *essential* to constitute a contract for sale of land are: (1.) That it should be writing, and signed by all the parties named thereto, or their agents duly authorised; (2.) that the parcels of land should be described with certainty; (3.) that the amount of purchase-money should be stated.

9. A widow, if married previously to 1834, was entitled to dower out of any lands of which, during the coverture, the husband was at any time solely seised in possession for any estate of inheritance to which any issue which the wife might have had might by possibility have been heir. Dower did not extend to equitable interests.

By the Dower Act of 1833 (3 & 4 Will. 4, c. 105), which applies to widows who have been married since the 1st of January, 1834, dower is extended to lands to which the husband had a right merely without having a legal seisin; dower is also extended to equitable as well as legal estates of inheritance in possession, excepting, of course, there is joint tenancy (sections 2, 3).

By the same Act, dower is placed completely within the power of the husbands.

10. A married woman may at the present day bar an estate tail in reversion by deed acknowledged, executed with the concurrence of her husband, and enrolled in chancery within six months from the making thereof (3 & 4 Will. 4, c. 75, ss. 40, 41, 79). In order to bar the persons in reversion or remainder the consent of the protector is also necessary.

11. The effect of a fine was, by 32 Hen. 8, c. 36, to bar the issue, and so to enlarge the estate tail into a base fee. A common recovery barred the persons entitled in remainder as well as the issue, and enlarged the estate tail into an estate in fee simple.

12. The deed would contain—(1) The names of the parties to it; (2) the recitals, setting forth the agreement for the marriage and for the settlement, and of the payment of the two sums of £5,000 to the trustees; (3) declarations of trusts, until marriage, for the husband and wife respectively after marriage, power of investment with the concurrence of the husband and wife or the survivor, as therein specified, trusts of income as to the husband's £5,000 for the husband for life, and as to the wife's £5,000 for the wife for life for her separate use, with remainder as to the whole to the survivor during his or her life, remainder to children as husband and wife or survivor shall appoint; in default thereof, in trust for children equally who, being sons, shall attain the age of twenty-one years, or, being daughters, shall attain that age or marry; in default of children, the husband's share to be in trust for the husband, his executors, administrators and assigns, the wife's share to be in trust for herself, her executors, administrators and assigns, if she survive her husband, if she do not, then in trust as she shall appoint, and in default of appointment, in trust for such person or persons as would have been entitled thereto if she had died possessed thereof intestate and unmarried; (4.) power to purchase real estate, such real estate to be held in trust for sale at any time, and the purchase-money to be held upon the trusts declared with reference to the original monies invested in the purchase thereof; (5.) power to apportion blended trust funds.

13. Succession duty is imposed by the Succession Duty Act, 1853, (16 & 17 Vict. c. 51), and is payable on the succession to an estate. It applies to the whole of the United Kingdom, to property both real and personal, whether derived under settlement or by will, intestacy or survivorship. The husband or wife of a predecessor, testator, or intestate, is exempt from succession duty. By section 10 of the Act, where the successor is the lineal issue or lineal ancestor of the predecessor, the duty is one per cent. Where the successor is a brother or sister, or descendant of a brother or sister, the duty is three per cent. Where the successor is a brother or sister of the father or mother of the predecessor, or a descendant of such brothers and sisters, the duty is five per cent. Where the successor is a brother or sister of the grandfather or grandmother of the predecessor, the duty is six per cent. Where the successor is a more distant relation, or a stranger, the duty is ten per cent. By section 11 a husband or wife is entitled, in calculating the amount of legacy or succession duty, to take advantage of the nearer relationship of the other to the predecessor, testator, or intestate, from whom the benefit is derived. By section 21, the interest of a successor in real property is to be valued as an annuity according to the tables annexed to the Act, and the duty chargeable is to be paid by eight half-yearly instalments. By section 31 annuities are to be valued according to the the tables annexed to the Acts.

By section 42 of the Act, the duty imposed thereby is to be a first charge on the property in respect of which the duty is assessed.

By section 2 of the Act, every *past* or *future* disposition of property by reason whereof any person has or shall have become beneficially entitled to any property or the income thereof, upon the death of any person dying after the time appointed for the commencement of the Act, &c., shall be deemed to confer a "succession"; so that it is immaterial for the purposes of the liability to succession duty, whether the date of the instrument is before or after the Succession Duty Act.

14. The will itself will in this case be valid, but the legacy will be void (7 Will. 4 & 1 Vict. c. 26, s. 15.)

15. The assignee would, before the passing of Lord St. Leonards' Act, 22 & 23 Vict. c, 35, be again entitled to assign without a fresh consent by the lessor; although the assignment was only prohibited when done *without* license (*Dumpor's case*, 4 Rep. 119; Williams on Real Property, pt. 4, c. 1). By the statute 22 & 23 Vict. c. 35, s. 1, "Every such license shall, unless otherwise expressed, extend only to the permission actually given, or to any specific breach of any proviso or covenant made or to be made, or to the actual matter thereby specifically authorised to be done, but not so as to prevent any proceedings for any subsequent breach, unless otherwise specified in such license."

III.—Equity and Practice of the Courts.

(By H. N. Mozley, Barrister-at-Law.)

1. The statute which governs the present system of uses and trusts in land is the Statute of Uses, 27 Hen. 8, c. 10. By this statute it was enacted, that "where any person or persons shall stand seised of any lands or other hereditaments to the use, confidence, or trust of any other person or persons, the persons that have any such use, confidence, or trust (by which was meant the persons beneficially entitled) shall be deemed in lawful seisin and possession of the same lands and hereditaments for such estates as they have in their use, trust, or confidence." This statute was intended to abolish the jurisdiction of the Court of Chancery over landed estates, by giving actual possession at law to every person beneficially entitled in equity. But this object was not accomplished; for the Court of Chancery soon regained its former ascendancy and has kept it to the present day. All that was ultimately effected by the Statute of Uses was to import into the rules of law some of the then existing doctrines of the courts of equity, and to add three words, *to the use*, to every conveyance (Williams on Real Property, pt. 1, ch. 8).

2. The following classes of persons may institute suits for the administration of the estates of testators or intestates:—(1) Creditors; (2) Legatees; (3) Parties interested in the residuary real or personal estate; (4) Executors or administrators. See Haynes' Outlines of Equity, pp. 107—112.

3. Where a husband becomes entitled, in right of his wife, in possession, to property which he is unable to recover at law, and the intervention of a court of equity is called into action, the court allows the husband to receive the property subject to what is called the wife's equity to a settlement, that is to say, unless the wife expressly waives this right; the court will inquire into all the circumstances connected with the marriage, and will, upon a consideration of all the material facts, decide how much of the property (if any) shall be paid to the husband, and how much (if any) shall be settled on the wife (Haynes' Outlines of Equity, p. 114).

4. A married woman may, by statute 20 & 21 Vict. c. 57 (passed in the year 1857) dispose of her reversionary equitable interest in personal estate; but the disposition must be made with the concurrence of her husband, and with

such formalities as are required in a disposition by a married woman of real estate. Nor can a married woman dispose of reversionary interests in personalty which may have been settled on her by marriage, or as to which she may have been restrained from disposing of it by the terms of the gift or settlement by which she became entitled to it.

Previously to this statute a married woman could not dispose of reversionary equitable interests in personalty.

5. The rule applicable to dealings between persons in confidential relations may be stated as follows:—Where a reasonable confidence is reposed by one person in another, or a peculiar influence is possessed by him in consequence of standing in a confidential relation, and he makes use of that confidence or that influence to obtain an advantage to himself at the expense of the party confiding in him or under his influence, he will not be permitted to retain any such advantage, however unimpeachable the transaction would have been if no such confidence had been reposed or no such confidential relation had existed (*Huguenin* v. *Baseley*, 14 Ves. 273; Tudor's Leading Cases in Equity, 2nd ed., vol. 2, p. 462, p. 504 in 3rd ed.; Smith's Manual of Equity, 7th ed., p. 70).

6. Courts of equity will dissolve a partnership before the regular time if, by reason of the ill-feeling between the partners, or other circumstances, it is impracticable to carry on the undertaking at all, or, at least, according to the stipulations of the articles, or beneficially, or in case of the insanity, permanent incapacity, or gross misconduct of one of the parties. And a partnership will also be dissolved at the instance of a partner who was induced to enter into it on a false representation (Smith's Manual of Equity, 7th ed., p. 331, and cases there cited).

7. "The principle upon which the Court acts is, that though the party has not a title in law, as he has not complied with the terms so as to entitle him to an action—as to the time, for instance—yet if the time, though introduced, as some time must be fixed where something is to be done on one side, as a consideration for something to be done on the other, is not the essence of the contract, a material to which they looked in the first conception of it, even though the lapse of time has not arisen from accident, a court of equity will compel the execution of the contract, upon this ground, that the one party is ready to perform, and the other may have a performance, in substance, if he will permit it" (Lord Eldon in *Hearne* v. *Tenant*, 13 Ves. 289).

The general rule is, that where a vendor has proceeded to make out his title, and has not been guilty of gross negligence, equity will assist him, although the title was not deduced at the time appointed. In *Fordyce* v. *Ford* (4 Bro. C. C. 494), the purchase was to be completed on the 30th July, 1793; the abstract was not delivered until the 8th, and the treaty continued until the 25th September, on which day the deeds were delivered and every difficulty cleared up, when the purchaser refused to proceed, alleging that he wanted the estate for a residence for the last summer, and insisting that he was not bound to go on, on account of the delay. The Master of the Rolls said that the rule certainly was, that where in a contract either party had been guilty of gross negligence the Court would not lend its assistance to the completion of the contract; but in this case he thought there had been no such negligence, and decreed accordingly.

The whole subject is treated in the 6th chapter of Lord St. Leonards' work on Vendors and Purchasers, pp. 257—271 in the edition of 1862, to which, and to the cases there cited, the reader is referred.

8. Where property is limited to the separate use of an unmarried woman, independently of any husband whom she may marry, and with a restraint on anticipation, and she marries, becomes a widow, and marries a second time,—

a Before her first marriage she may dispose of such property (*Woodmeston* v. *Walker*, 2 Russ. & Myl. 197; *Browne* v. *Pocock*, 2 Russ. & Myl. 210).

b While a widow she may dispose of the property (*Jones* v. *Salter*, 2 Russ. & Myl. 208).

c During either of her marriages she cannot dispose of it, for the separate use with its accompanying restraint revives (*Tullett* v. *Armstrong*, 1 Beav. 1, affirmed on appeal, 4 Myl. & Cr. 377, overruling *Massey* v. *Parker*, 2 Myl. & K. 174. See Haynes' Outlines of Equity, pp. 212—215).

9. If a married woman, entitled to property for her separate use, execute a bond or sign a promissory note, her separate estate is liable for the debt (*Hulme* v. *Tenant*, 1 Bro. C. C. 16; *Heatley* v. *Thomas*, 15 Ves. 596; *Bullpin* v. *Clarke*, 17 Ves. 365). For her execution or signature would be worthless if viewed as evidence of a mere personal engagement; and the Courts of Equity therefore said, that they should be evidence of a contract to bind her separate estate. See Haynes' Outlines of Equity, p. 216.

10. If a settlement or will contain no power to sell or grant leases, and a sale or lease be required, applications should be made to the Court of Chancery under the Leases and Sales of Settled Estates Act (19 & 20 Vict. c. 120) for the requisite authority. Under section 2 of that Act, leases may be made, on the authority of the Court of Chancery, for terms not exceeding twenty-one years for an agricultural or occupation lease; forty years for a mining lease, or a lease of water, water-mills, wayleaves, waterleaves, or other rights or easements; sixty years for a repairing lease, and ninety-nine years for a building lease, subject to the conditions prescribed by the Act. And where the Court shall be satisfied that it is the usual custom of the district, and beneficial to the inheritance, to grant leases for longer terms, any of the above leases, except agricultural leases, may be granted for such terms as the Court shall direct (Stat. 21 & 22 Vict. c. 77, s. 4). By section 23 of Statute 19 & 20 Vict. c. 120, if the Court of Chancery should deem it proper, and consistent with a due regard for the interest of all parties entitled, a sale of any settled estate may be ordered to be made (Williams on Real Property, pt. 1, ch. 1).

11. Where a testator bequeaths property to A., and also bequeathes to B. something which belongs to A., A. can claim the legacy only on condition of resigning in favour of B. his own property or interest which is bequeathed to B.; or at least, A. cannot have the entire gift without compensating B., whom he has disappointed by electing to take his own property (Smith's Manual of Equity, 7th ed., p. 351).

12. If a father makes a will bequeathing a legacy to a child, and afterwards settles a sum of money to the marriage of such child, and then dies, the child will not in general be entitled to the legacy, but the legacy will be held to be *satisfied* by the settlement. It is not necessary, in order that this doctrine of satisfaction should apply, that the sums given by the two instruments should be payable at the same time, nor even that the limitations for the benefit of the child provided for be precisely the same. See *Lord Durham* v. *Wharton*, 5 Sim. 297, 3 Myl. & K. 472, 3 Cl. & Fin. 146; Haynes' Outlines of Equity, pp. 322—4, 331.

13. Unless a special order is obtained for taking evidence *viva voce* at the hearing, or a special agreement is entered into, the parties go into evidence, either wholly or partially by way of affidavit, or wholly or partially by the oral examination of witnesses *ex parte* before one of the examiners of the court, or a special examiner. Any witness may be cross-examined in court at the hearing of the cause. The ordinary practice of the Court as to evidence after issue joined may be stated thus: each party verifies his case wholly or partially by affidavit, or wholly or partially by oral examination of witnesses *ex parte* before one of the examiners of the court or a special examiner, and there is no cross-examination otherwise than at the hearing of the cause.

By rule 3 of the Order of February 5, 1861, it is provided that, upon summons taken out by any party within fourteen days after issue joined, the judge at chambers may make an order that the evidence in chief as to any particular facts and issues be taken *viva voce* at the hearing. For other exceptions which may be made to the general practice, see rules 10 and 11 of the same order. See also Mr. Chapman Barber's statement in Haynes' Outlines of Equity, App. pp. xxi—xxiii.

The above observations apply to the case where issue is joined by replication. In the case of an intended motion for decree under the statute 15 & 16 Vict. c. 86, s. 15, the plaintiff, having filed such affidavits as he considers sufficient, gives notice to the defendants that he intends, at the expiration of one month from the notice, to move for a decree, and at the foot of the notice of motion he specifies the affidavits which he intends to use in support of the motion. The defendant has a fortnight's time (often extended by special order) to file affidavits in answer, and the plaintiff has a week (also often similarly extended) to file affidavits in reply. Consolidated Orders, Order 33, rules 4—7; Mr. Chapman Barber's statement, Haynes' Outlines of Equity, App. pp. xvii., xviii).

14. Proceedings in the Court of Chancery may be *commenced* by summons at chambers for certain purposes connected with the administration of a deceased person, either

by a person interested in the estate of the deceased, under 15 & 16 Vict, c. 86, ss. 45, 47, or by executors or administrators, under 23 & 24 Vict. c. 38, s. 14 (See Hunter's Suit in Equity, 4th ed., by G. W. Lawrance, pp. 231—236). Proceedings for the rectification of a joint stock companies' register, under 25 & 26 Vict. c. 89, s. 35, may also be commenced by summons at chambers; and also applications for the guardianship and maintenance of infants, and certain applications under the Drainage Acts. (See Daniell's Chancery Practice, 4th ed. vol. ii. pp. 1070—1222 ; 27 & 28 Vict. c. 114, s. 21.)

15. The effect of the enrolment of a decree, with reference to a rehearing or appeal, is as follows:—The decree cannot, when enrolled, be varied by the simple and cheap process of rehearing, but it is necessary to have recourse to the House of Lords, or to file a bill of review. The House of Lords will not entertain an appeal from a decree which has not been signed and enrolled (Hunter's Suit in Equity, 4th ed., by G. W. Lawrance, pp. 91, 178).

IV.—Bankruptcy and Practice of the Courts.

(By Chaloner W. Chute, Barrister-at-Law.)

1. Farmers, graziers, common labourers, or workmen for hire, and all members of any partnership, association, or company which cannot be adjudged bankrupt under the Act, are (as such) exempted from the definition of the term "trader" by the schedule to the Act (32 & 33 Vict. c. 71).

2. No person is to be adjudged bunkrupt unless the act of bankruptcy on which the adjudication is grounded occurred within six months before the presentation of the petition for adjudication (32 & 33 Vict. c. 71, s. 6).

3. A creditor holding security may be a petitioning creditor, if he states in his petition that he will be ready to give up such security for the benefit of the creditors in the event of the debtor being adjudicated a bankrupt, or if he is willing to give an estimate of the value of his security, in which latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated; he will, however, be bound, if the trustee require him so to do, to give up his security to the trustee for the benefit of the creditors, upon payment of such estimated value (section 6).

4. Every creditor may prove under the bankruptcy whether the bankrupt's debt or liability to him is present or future, certain or contingent, provided the liability existed at the date of the adjudication, or arises during the continuance of the bankruptcy by reason of some obligation incurred previously to the date of adjudication; but these exceptions are made by the Act; (1) demands in the nature of unliquidated damages arising otherwise than by reason of a contract or promise shall not be provable in bankruptcy, and (2) no person having notice of any act of bankruptcy available for adjudication against the bankrupt shall prove for any debt or liability contracted by the bankrupt subsequently to the date of his so having notice (section 31).

5. The Court may, after adjudication, summon before it any person suspected of having in his possession any of the property or effects belonging to the bankrupt, and may require any such person to produce any document in his custody or power relating to the bankrupt, or his dealings or property, and may examine upon oath any person so brought before it (sections 96 and 97).

6. If any creditor in any bankruptcy, or liquidation by arrangement, or composition with creditors, in pursuance of the Bankruptcy Act, 1869, wilfully and with intent to defraud makes any false claims or any proof, declaration, or statement of account which is untrue in any material particular, he is guilty of misdemeanour by the 14th section of the Act for Abolishing Imprisonment for Debt (32 & 33 Vict. c. 62).

7. If a tenant becomes bankrupt his landlord may distrain upon his goods or effects for the rent due to him; but any such distress, levied after the commencement of the bankruptcy, is to be available only for one years' rent accrued due prior to the adjudication, and the landlord must prove under the bankruptcy for the overplus for which the distress may not have been available (32 & 33 Vict. c. 71, s. 34).

8. If a person having privilege of Parliament commits an act of bankruptcy, he may be dealt with under the new Act in like manner as if he had not such privilege; and if he is a member of the House of Commons he is to be, during one year, incapable of sitting and voting in that House, unless, within that time, either the order is annulled or the creditors are satisfied. And if the order of adjudication is not annulled, and the debts of the bankrupt are not fully satisfied at the end of the year, the Speaker is to issue a writ to elect a new member in his place (sections 120—123).

9. When the Court is satisfied that the whole of the property of the bankrupt has been realised for the benefit of his creditors, or so much thereof as can be realised without needlessly protracting the bankruptcy, or that a composition or arrangement has been completed, it is to make an order that the bankruptcy has closed. And upon such order being made, or at any time with the assent of the creditors testified by a special resolution, the bankrupt may apply to the Court for an order of discharge (sections 47 and 48).

10. The declaration of dividends vests in the trustee, subject to the approval of the committee of inspection; and when the trustee has converted into money so much of the bankrupt's effects as can, in the joint opinion of himself and the committee of inspection, be realised without needlessly prolonging the bankruptcy, he is to declare a final dividend (sections 41 and 44).

11. When a person who has been made bankrupt does not obtain his discharge he is to be protected for three years from the close of the bankruptcy from having any debt provable under the bankruptcy enforced against his property; and if during that time he pays to his creditors such additional sum as will make up in the whole ten shillings in the pound, he is to become entitled to an order of discharge in the same manner as if a dividend of ten shillings in the pound had originally been paid out of his property; but if, at the expiration of the three years from the close of the bankruptcy, the bankrupt is still undischarged, the balances still remaining unpaid are to become judgment debts, which may be enforced against his property with the sanction of the Court, saving the rights of persons becoming creditors after the close of the bankruptcy (section 54).

12. The following settlements by a bankrupt trader are not void, though the bankruptcy is within two years from the date of the settlement:—

a A settlement made before and in consideration of marriage.

b A settlement made in favour of a purchaser or incumbrancer in good faith and for valuable consideration.

c A settlement made on or for the wife or children of the settlor, of property which has accrued to the settlor after marriage in right of his wife (section 91).

13. A debtor desirous to compound with his creditors under the new Act, must present a petition in the form given in the 106th schedule to the orders of January, 1870, praying that notices to convene a general meeting of the creditors may be issued, and that any resolutions which may be passed by the creditors may be duly registered by the registrar of the court. He must then (unless prevented by some cause, such as sickness) be present at the creditors' meeting to answer inquiries, and produce a statement showing the whole of his assets and debts (section 126, and General Rules, rule 252).

14. The debtor is to produce to the first general meeting, and also (in case there be any) to the second general meeting, a statement showing the whole of his debts and assets, and the names and addresses of the creditors to whom such debts respectively are due. The name of each creditor in such statement is to be numbered consecutively, and the list of those creditors whose debts do not exceed £10, are to be separated and follow after the list of those creditors whose debts exceed that amount.. The debtor's statement of affairs is to be as near as may be in the form required in bankruptcy (rule 274).

15. In calculating a majority for the purposes of a composition under part 7 of the Act, creditors whose debts amount to sums not exceeding £10 are to be reckoned in the majority in value, but not in the majority in number (section 126).

V.—Criminal Law and Proceedings before Magistrates.

(By E. A. C. Schalch, Barrister-at-Law.)

1. A conspiracy is the agreement between two or more persons to do an illegal act—as, for instance, to commit a crime.

2. No. Because a husband and wife cannot alone be found guilty of a conspiracy, for they are considered in law as one person, and are presumed to have but one will. Consequently, as the third person is acquitted, there can be

no conviction for conspiracy, as there are not, in the eye of the law, two persons charged with that crime.

3. A conspiracy must be by two persons at least, but one person alone may be tried for a conspiracy, provided that the indictment charge him with conspiring with others who have not appeared, or who are since dead.

4. Yes. Because the essence of the crime of conspiracy is the mere *agreement* to do the illegal act which is the object of the conspiracy. An agreement between two or more to commit a crime is as much a crime in itself before as after the crime is committed in pursuance of the agreement.

5. A libel upon an individual is a defamation of him by writing, printing, or signs calculated to expose him to the hatred, contempt, or ridicule of others. It is necessary that the libel should be published. It need not be proved that it was malicious, because the law infers malice from the fact of the publication of such a defamatory statement. It is not necessary that anything criminally or morally wrong should be imputed to the person libelled. It is sufficient if what is imputed is defamatory. For instance, to write and publish of a man that he is a very stupid person would be *prima facie* libellous. Besides libels on individuals there are also blasphemous, seditious, and obscene libels.

6. Yes. A libeller can be prosecuted criminally for a libel, because it is considered that a libel tends directly to cause a breach of the peace, and is, therefore, a crime. The civil proceedings are to obtain compensation for the damage done by the libel, the criminal proceedings to preserve order in the state.

7. The rule of the common law is "the greater the truth the greater the libel" in a criminal prosecution, and the truth of the libel is, therefore, no defence in a criminal prosecution although it is a good defence in an action. This common law rule is now subject to the provision of 6 & 7 Vict. c. 96, by section 6 of which the truth of a libel is allowed to be a defence in a criminal prosecution if it was for the public benefit that the libel should be published. The fact that a libel was true, or believed to be true by the libeller, may sometimes, of course, affect the amount of punishment very much, even where it does not afford any defence.

8. 24 & 25 Vict. c. 96, s. 44, enacts that whoever shall send, &c., knowing the contents thereof, any letter demanding of any person with menaces and without any reasonable or probable cause any property, chattel, money, &c., shall be guilty of felony and liable to penal servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years with or without hard labour, and with or without solitary confinement.

9. Champerty (*campi partitio*) is a bargain with a plaintiff or a defendant *campum partire* to divide the land or other matter sued for, between them, if they prevail in law, whereupon the champertor is to carry on the party's suit at his own expense. It signifies the purchasing of a suit or the right of suing (4 Bla. Com. 135).

10. By section 24 of 22 & 23 Vict. c. 35, any vendor of real or personal estate, or the solicitor of any such vendor, who shall after the passing of the Act conceal any settlement, deed, will, or other instrument material to the title from the purchaser, in order to induce him to accept the title offered to him, with intent to defraud, shall be guilty of a misdemeanour, and shall be liable to fine or imprisonment not exceeding two years with or without hard labour, or to both, and shall also be liable to an action for damages at the suit of the purchaser for any loss sustained by the purchaser in consequence of such concealment.

11. Ignorance of law does not excuse any one from punishment for the commission of a crime. The maxim is *Ignorantia juris quod quisque scire tenetur neminem excusat.* Such ignorance, however, although it is no defence to a criminal prosecution may affect the amount of punishment to be awarded to the offender. Ignorance of fact may be an excuse for the commission of a criminal act.

12 and 13. Infants, idiots, lunatics, and married women are under a more or less limited liability for their criminal acts.

An infant up to seven years of age is incapable of committing a crime. Between seven and fourteen years of age he is presumed to be *doli in capax* and so not liable for criminal acts, but evidence may be given to rebut this presumption and to show that in fact he is *doli capax*, and if this is proved he is liable as if of full age. After fourteen an infant becomes criminally liable as if of full age.

Idiots and lunatics are absolutely free from liability for criminal acts.

Married women are relieved from liability for criminal acts when done by coercion of their husbands, and if done in the presence of their husbands it is assumed, in the absence of contrary evidence, that the act is done by their coercion. Evidence may, however, be given to show that the wife, although acting in her husband's presence, was not under coercion, and if this is proved she is liable as if a *feme sole*. The mere authority or command of a husband to his wife to commit a crime will not excuse her if she commits it in his absence. It is not very well settled to what crimes this partial immunity of married women extends. It is said not to extend to treason, murder, or manslaughter, but it seems that it does extend to theft and burglary.

14 and 15. A principal in the first degree is one who is the actual perpetrator of the fact. Principals in the second degree are those who are present, aiding and abetting at the commission of the fact.

An accessory before the fact is he who, being absent at the time of the fact committed, doth yet procure, counsel, command, or abet another to commit it. An accessory after the fact is one who, knowing a feonly to have been committed by another, receives, relieves, comforts or assists the felon.

There can only be accessories in felonies. In treasons and misdemeanours all are principals if guilty at all.

EXAMINATION AT THE INCORPORATED LAW SOCIETY.

I.—From Chitty on Contracts.

1. What are the different kinds of contracts?
2. What are the requisites of a deed?
3. To constitute the delivery of a deed as an escrow, to whom must it be delivered?
4. When a treaty is begun by letter, and an offer made by letter is verbally rejected, is the party making the offer discharged from his written offer?
5. Is a promise to forbear "for a little time" sufficient to constitute a good consideration for a contract?
6. Is it requisite that a person who makes a promise in consideration of forbearance to a third party should have an interest in the transaction?
7. What is the distinction between a good and a valuable consideration?

II.—From Williams on the Principles of the Law of Real Property.

8. Define the legal meaning of the word "purchase" as contradistinguished from descent, and to what tenure is it applicable?
9. What is the first rule of descent? From whom must it now be traced?
10. When do female descendants inherit, and why were they, and are they postponed to males of equal degree?
11. What are co-parceners of an estate; and when there are three or more, will the law oblige them to make partition if one should require it?
12. Can a kinsman of the half-blood inherit when the common ancestor is a male, or a female; and after whom in degree can he succeed?
13. Define the meaning of a "manor," and explain its origin. How are lands held in it by the lord's tenants?
14. What are customary freeholds; and are they held at the will of the lord; and do these last words import an absolute, or a limited right of dominion?

III.—From J. W. Smith's Manual of Equity Jurisprudence.

15. Give some illustrations of the maxim "Equity looks on a thing as done which ought to be done."
16. What is the distinction between actual fraud and constructive fraud?
17. State some of the instances in which the Court of Chancery will excercise its jurisdiction over infants.
18. Define a special injunction, and how is it obtained?
19. What redress is there in equity against a party who has contracted to do a thing, and has not done it; and in what cases will equity refuse to interfere?
20. Under what circumstances will equity interfere in cases of parol contracts only?
21. State the principles followed by the Court of Chancery in reference to profit or loss made by trustees in administering or dealing with trust funds.

IV.—Book Keeping.

22. An account has two sides, a Dr. side and a Cr. side. Say what these two sides are intended to contain.

23. How should you keep a constituent's account?

24. What ought the account at any time to show?

25. What are the principal books of account which ought to be kept?

26. Of what items should a balance sheet be composed; and of what ought the difference between the Dr. and Cr. side to consist?

ADMISSION OF ATTORNEYS.

Easter Term, 1870.

The following are the days for admission in Common Law:—

Wednesday.....May 11 | Thursday..... May 12

ADMISSION OF SOLICITORS.

The Master of the Rolls has appointed Thursday, the 12th of May, 1870, at the Rolls Court, Chancery-lane, at four o'clock in the afternoon, for swearing in solicitors.

Every person desirous of being sworn in on the above day must leave his common law admission or his certificate of practice for the current year at the secretary's office, Rolls-yard, Chancery-lane, on or before Wednesday, the 11th of May.

The papers of those gentlemen who cannot be admitted at common law till the last day of Term will be received at the secretary's office up to twelve o'clock at noon on that day, after which time no papers can be received.

LECTURES AND LAW CLASSES AT THE INCORPORATED LAW SOCIETY.

Mr. H. M. Bompas, Lecturer and Reader on Common Law and Mercantile Law—Monday, May 2, class A. Tuesday, May 3, class B. Wednesday, May 4, class C. —4.30 to 6 p.m.

Friday, May 6, lecture—6 to 7 p.m.

THE REAL ESTATES INTESTACY BILL.

(*Continued from page* 517.)

But with regard to the descent of estates in fee simple where undisposed of by settlement or will, I have long been of opinion that an alteration in the law of primogeniture would be beneficial, and I have expressed this opinion in my published works. * An estate in fee simple is an estate given to a man and his heirs. In ancient times these words were pregnant with meaning. The heir had a vested right of succession, of which the ancestor could not deprive him by any alienation, whether by deed or will. The eldest son was the heir-at-law, because he was supposed to be stronger and more competent to bear arms than his younger brothers.† This reason, I need hardly say, has long since ceased. Full power of alienation has been gradually acquired. The words "to him and his heirs" are now mere technicalities. The necessity for their use was abolished, as to wills, by one of the first Acts of the present reign.‡ But in deeds they must still be used; and to them cling masses of feudal rubbish, such as the rule in *Shelley's case*, all of which might most beneficially be weeded out of the law. I should like to uproot this ancient definition, and with it the last remaining trace of its feudal origin—the descent on intestacy to the eldest son.

And my reasons are these:—Granted that the testamentary power is beneficial, it seems to me to follow that, where by accident this power has not been exercised, the law should make, as nearly as may be, the same disposition as a wise testator would have made for himself. I think that the more this matter is considered, the more this will be found to be the true principle. When lunacy or idiotcy render a will impossible, surely the law should make some approach to a reasonable provision for all the children, and should rather mitigate the misfortunes of the family by an equitable apportionment, than abide by a feudal rule, however great its antiquity or historical interest. Intestacy occurs far more frequently with respect to small properties than large ones; and in these cases the wisest disposition would most frequently be, a sale of the property, and the division of the proceeds in due proportions between the wife and children—in fact the same or nearly the same division as is made of the personal estate by the Statute of Distribution. We have seen that the Court of Chancery, anticipating, as the courts have often done, the tardy current of legislation, has in some cases already produced this effect. But if the share of a trader in lands, purchased for the purposes of a partnership business, is in equity personal estate, why should ground or warehouses, which a man trading alone has bought for the purposes of his business, be still bound by an old feudal rule, the reason of which has long since ceased?

Lands held for long terms of years exist in many parts of the country. For all practical purposes they are the same as freeholds. And yet on intestacy they do not descend to the heir, but vest in the administrator in trust for the next of kin. I never heard of any injurious consequence arising from this state of the law. If all lands were vested in the administrator, there would, no doubt, be a great temptation to the Chancellor of the Exchequer to subject them to administration and legacy duty. But such taxes, if imposed, would at least have the merit of simplicity, a merit which, unfortunately, cannot be claimed by the duty on successions to real estate.

It may be said that many persons would by their wills leave their real estate to their eldest son, leaving their personalty only amongst their younger children. But in practice it is found that, when the real estate is deliberately destined to the eldest son, it is almost always charged with some moderate provision for the younger children. Such a provision it would be very difficult to make in case of intestacy. And where it is impsssible to meet every case, it seems to me that legislation should be aimed at those cases which most frequently occur. Intestacy very seldom occurs as to large properties. They are generally carefully settled in a manner suited to the circumstances of the family. There is one exseption, however, which I think might well be made and which seems to me to follow from the principle of doing that by law which a prudent testator would himself have most probably done had he left a will. As long as we have in this country descendible titles of honour, so long is it most desirable that a sufficient estate should accompany each title, to enable the heir to maintain the dignity which has, by no act of his own, descended upon him. As the law now stands, on the decease intestate of a peer or a baronet, the title may go to the next heir male, and the lands to the next heir general, such as an only daughter. I think that the same policy which creates these distinctions should endeavour to preserve them, so far as may be done without infringing on the right of alienation. It appears to me, therefore, that, on the decease intestate of a person possessed of a hereditary title, his real estate should descend with the title to the next heir thereto, but charged, if you please, with a provision—say to the extent of one-fourth of the value of the lands, in favour of his next of kin.

I think that a sale of the real estate of an intestate, and the division of the produce, is far more desirable than a division of the lands themselves amongst the children. I believe the perpetual subdivision of land, except where made for building or like purposes, to be very harmful. I believe that, except perhaps in very mountainous countries, capital is most productively applied to land in large than in very small farms. A sale effects the fairest partition. If all agree, it need not be made; and if made, any one or more may, by purchasing the lands, retain them in the family. No doubt there are cases, such as the infancy of all the children, where this course would be impracticable. And it might perhaps be more prudent, in introducing so great and fundamental an alteration, to pursue at first a tentative course, and to make it optional to every purchaser of landed property to have it at his decease treated either as real or as personal property. A scheme for this purpose has been put forth by my learned friend, Mr. F. Vaughan Hawkins, in an able paper on the "Optional Mobilisation of Land." * I think that his suggestions are well worth attention. If it were found that the great majority of pur-

* "Principles of the Law of Personal Property," p. 266, 1st ed., 1848; p. 365, 7th ed., 1870. "Essay on Real Estates," p. 130.

† "Gilbert's Tenures," p. 11.

‡ Stat. 7 Will. IV., and 1 Vict. c. 26. An Act for the amendment of the laws with respect to wills.

* "Optional Mobilisation of Land; a scheme for Simplifying Title and Transfer," by F. Vaughan Hawkins, of Lincoln's Inn, Barrister-at-Law. Maxwell & Son.

chasers availed themselves of this provision* in order to avoid the rule of primogeniture, that rule might ultimately be made the exception, or perhaps abolished altogether. Meanwhile, I must confess it seems difficult to imagine any fair ground of opposition to a plan which would be simply permissive, and which would enable the landowner more effectually to destine his property in a way which he himself may conceive to be the most equitable.

The chief objection to the plan of optional mobilisation is, that it would tend to complicate the law by the addition of another class of property. The enormous extent and ramifications of our law are very little appreciated by the public at large, who suppose that any lawyer of any eminence must know all about it. This I believe to be not only untrue but impossible. I sincerely trust that no changes are in contemplation which may render more frequent the painful spectacle of a judge in the false position of having to decide points of law with which he is of necessity unfamiliar.

But to return to our subject. I think that on the decease of a married woman, her lands ought not to belong wholly to her husband, as her personal estate now does. In this respect, however, I should suggest an amendment in the law of personal property. In ancient times it might have been reasonable that the wife's goods and chattels should belong entirely to her husband. They then consisted principally of those brass pots, spinning-wheels, and four-post bedsteads, of which specimens are still to be seen in the collections of the curious. But at the present day the case is different. When especially the wife has property for her separate use, the right of the husband to claim the whole on her decease intestate, is generally contrary to what is intended, and produces accordingly surprise and disappointment. I think that if, on the wife's decease, the husband had the same share in his wife's personal estate as she now has in his, the law would be more just; and the same rule might then apply to the proceeds of the real estate as well as to the personalty. If this were done I should propose to abolish altogether the husband's estate by the curtesy after his wife's decease. And I do not think that estates tail, which are now subject to curtesy, need form any exception.

If one were framing a code of laws, the fact of the husband having had issue born alive would scarcely be selected as the most suitable event on which to give him an estate for life in his wife's lands; and I cannot remember ever having seen such a provision deliberately inserted in any settlement. I think that during the coverture the husband, as the head of the household, should be entitled as now to the rents and profits of his wife's lands. But after her decease, I think that, in default of any express stipulation, she ought to be able to dispose of her lands by her will, giving them as she pleases, either to her husband absolutely, or to any one else.

As the law now stands, the real estate of a married woman descends, subject to her husband's curtesy, to her heir-at-law, unaffected by any disposition which she may have attempted to make by her will. Nor can she defeat the right of her heir by any disposition she may make by deed, unless such deed be executed with her husband's concurrence, and be also acknowledged by her apart from him, as her own act and deed, before a judge or two commissioners. I think that the law may be beneficially altered in both these respects. I see no reason, as I have said, why a married woman should be unable to dispose of her lands by will; and, although the principle of the separate acknowledgment of deeds by married women may, perhaps, find defenders in the profession, yet in practice it is undoubtedly true that no lawyer ever deliberately places the lands of a married woman within the protection which the law thus provides; but, on the contrary, in every settlement where a power of disposition is given to the wife, it is carefully so framed as to avoid the necessity of a separate acknowledgment by her. I think that a system condemned by the universal practice of the profession had much better be abolished. I think that every married woman, with the concurrence of her husband, should have power to dispose of her real estate by a deed simply executed in the usual way. I have before called attention to the need of this reform.* I am glad to find the same views expressed in an able paper on the property rights of married women, lately read before the Juridical Society by my learned friend, Mr. Droop.*

On the decease of a husband intestate, his widow's right of dower still intervenes as against the heir. This old-fashioned right was well adapted to the times in which it originated. But so troublesome had it become in modern times, that the Act for the Amendment of the Law relating to Dower,† enabled every future husband to deprive his wife of this provision by any deed executed by him, or by his will. The remarkable unanimity with which all purchasers of lands have availed themselves of this provision shows how little this right is relied on as a practical provision for the widow. And in truth it would be very difficult to set out by metes and bounds one-third of a dwelling-house for the exclusive use of the widow for the rest of her life; and what use could she make of a life estate in a portion of a piece of building ground? I think that this right had very much better be abolished. One-third or one-half, as the case may be, of the proceeds of the sale of the land would not, I should hope, be regarded by those most concerned as an unhandsome offer in exchange.

According to the present law, lands do not descend to the heir of the last possessor, but to the heir of the last purchaser. So that if an only son has inherited lands from his mother, the heir of his mother, however distant, is preferred to his father; and, in other cases, the heir of the father, however distant, comes in before the mother. This may be feudally right, but I venture to think that it is naturally wrong. If the alterations for which I contend were made, the next of kin of the last possessor would, on his death without issue, always take the produce of his landed property; the father, if living, taking the whole, or, if he were dead, the mother, brothers, and sisters sharing equally.

By the old law of descent, in default of issue, relations of the half blood could never inherit. When this law was—with the law of dower and other laws,—amended at the suggestion of Lord Brougham's Real Property Commission, the half blood were permitted to inherit; and their true place was, I think, assigned to them, namely, next after those of the same degree of the whole blood. This position I should not wish to disturb. I had rather alter the Statute of Distribution, by postponing the half to the whole blood in the succession to personal estate, instead of permitting all to share equally as is now the case. This suggestion also I have made before.‡ I do not think that a half brother or sister has the same claim as a brother or sister of the whole blood. Unquestionably the relationship is less.

There is another point in which I think that a beneficial change might be made in the distribution of the proceeds of an intestate's estate. I do not think that very distant relatives need be sought for at great trouble and expense. I should suggest that in the event of intestacy, there would be no occasion to go beyond the uncles and aunts of the intestate, and their descendants. Beyond these limits there is usually very little of that intimacy which raises an expectation of some provision. I should suggest that beyond these limits the property of an intestate should go to the Crown for the benefit of the whole of the intestate's countrymen, rather than to the few who may be able to trace a kinship to him. This suggestion I have made before.§ A similar proposal has been made by Mr. Mill in the first volume of his "Political Economy."‖

The change which I advocate in the law of descent would involve some important consequences, all of which require consideration. Two of them are of especial importance; namely, first, the placing in the same hand of both the real and personal estate of an intestate, with a view to the payment of his debts. There was a time when Sir Samuel Romilly's proposal to subject a man's real estate to the payment of his simple contract debts was denounced as subversive of the constitution. Those times are happily past. But the want of fit machinery for the realisation of the landed property of a deceased debtor is an evil still

* "Principles of the Law of Personal Property," p. 288, 1st ed. 1848; p. 393, 7th ed. 1870.

* "On the Property Rights of Married Women," by H. R. Droop, Esq., of Lincoln's Inn, Barrister-at-Law, late Fellow of Trinity College, Cambridge. Wildy & Sons, and Ridgway.

† Stat. 3 & 4 Will. 4, c. 105.

‡ "Principles of the Law of Personal Property," p. 265, 1st ed. 1848; p. 364, 7th ed. 1870.

§ "Principles of the Law of Personal Property," p. 268, 1st ed. 1848; p. 367, 7th ed. 1870.

‖ Pp. 272, 273, 2nd. ed.

practically felt. I think that the whole of the estate of every deceased person should vest first in his executor or administrator for payment of his debts, with similar powers to those now possessed, subject, perhaps, to a few modifications.

The second important consequence would be an improvement in a branch of the law, which, in my view, of all others most needs to be improved, namely, the law of mortgage. It seems to me monstrous that the pedigree of the lender's heir should, for sixty years, become a part of the borrower's title, because the lender, after the loan, may happen to die intestate. The mortgagor now hands over the lands bodily to the mortgagee; and at law he is the owner, and to his heir descends what is called the legal estate. I heartily wish this legal estate were abolished. I have known a person obliged to put up for years with a lease, improperly obtained from his predecessor in title, simply because, having been obliged to borrow, he was unable himself to bring an ejectment, and his mortgagees, of course, declined the responsibility. I think that every mortgage should be at law what it is in equity—a charge and nothing more, not interfering, unless it be realised, with the ownership of the mortgaged lands. This change, if effected, would no doubt supersede the advantage to be derived, in this case, from a change in the law of descent.

It may be said that other consequences not so beneficial may perhaps follow from the change I propose. It may, possibly be that those who have no lands may think this change will tend to their benefit, and finding that it does not will be disappointed. But it is, of course, mainly in the interest of those who are possessed of landed property, that I propose a change in the laws relating to such property. Those who have none should be, and I hope and believe increasingly are, the objects of anxious consideration on the part of the Legislature. But the particular subject which I have been discussing cannot, so far as I can see, materially affect them either one way or the other.

OBITUARY.

*** The death of Mr. John Endell Powles, solicitor, of Monmouth, was erroneously announced in our last week's obituary. We were betrayed into the mistake, which we regret extremely, in consequence of a Mr. Alderman John Powles (who died on the date mentioned by us) having been described as Mr. J. E. Powles. We are glad to find that Mr. John Endell Powles is in perfect health, and trust it may be many years before he becomes entitled to a place in our obituary columns.

SIR C. G. PAYNE, BART.

The death of Sir Charles Gillies Payne, Bart., barrister-at-law, took place at Blumham House, his seat in Bedfordshire, on the 21st of April, at the age of seventy-seven years. The deceased baronet was the eldest son of the late Sir Peter Payne, who assumed the title in 1828. Sir Charles succeeded to the baronetcy on the death of his father, in January, 1843. He was educated at Merton College, Oxford, where he graduated B.A. in 1815, and M.A. in 1818; he was called to the bar at the Middle Temple in June, 1823. In 1833, during his residence at St. Christopher's, in the West Indies (where there are family estates), he was appointed a member of the Executive and Legislative Councils of the island. He filled the office of High Sheriff of Bedfordshire in 1851, and was nominated a deputy-lieutenant of that county in 1852; for many years he was chairman of the justices of the Biggleswade division. By the death of Sir Charles, the baronetcy devolves on his only son, Salusbury Gillies Payne, barrister-at-law, of the Norfolk Circuit. Sir Salusbury Payne was born at St. Christopher's in April, 1829, he was educated at Rugby, and afterwards at Brasenose College, Oxford, having been called to the bar at the Middle Temple in November, 1857.

MR. T. J. KNIGHT.

Mr. Thomas John Knight, barrister-at-law, died suddenly on the 25th April, at his residence at Richmond, Surrey. The late Mr. Knight was educated at Trinity College, Cambridge, where he graduated B.A. in 1828, and afterwards proceeded M.A.; he was called to the bar at the Middle Temple in November, 1831, and practised for some years at Hobart Town. He subsequently became Solicitor-General, and afterwards Attorney-General, for the island of Tasmania, which latter office he resigned in 1861, when he returned to England.

MR. E. LLOYD.

Among the party recently captured by Greek brigands on the field of Marathon, and afterwards murdered, was Mr. Edward Lloyd, barrister-at-law. He was a son of Mr. E. J. Lloyd, Q.C., Judge of the Bristol County Court, and was called to the bar at Lincoln's-inn in June, 1858; he had visited Greece on business connected with the Piræus Railway. Mr. Lloyd was for some time on the staff of the *Jurist* and *Weekly Reporter*. He was the author of a very well known work on "The Law of Trade Marks," which appeared originally as a series of articles in the *Solicitors' Journal*.

MR. G. R. MOSSMAN, SEN.

We have to record the death of Mr. George Robert Mossman, sen., solicitor, of Bradford, which took place at that town on the 26th of April. Mr. Mossman was the oldest solicitor in Bradford, having taken out his certificate in Hilary Term, 1820, and had therefore been in practice for nearly fifty years. About forty years of that period he held the office of clerk to the West Riding Justices acting for the east division of Morley, which becomes vacant by his death. The deceased gentleman, who had reached his seventy-fifth year, was a member of the Metropolitan and Provincial Law Association. His son, Mr. G. R. Mossman, is clerk to the borough justices of Bradford.

SOCIETIES AND INSTITUTIONS.

METROPOLITAN AND PROVINCIAL LAW ASSOCIATION.

Proceedings at the Twenty-third annual general meeting, held at the Incorporated Law Society's Hall, on Wednesday, April 27th, 1870, Mr. Edward Lawrance, in the chair.

The secretary read the report and the annual balance sheet.

Resolved—1. On the motion of the Chairman: That the report of the committee of management be adopted, and that it be printed and circulated in the usual way.

Resolved—2. On the motion of Mr. J. Kendall, seconded by Mr. Dodds, M.P.: That the cordial thanks of the association be presented to the committee of management for their labours during the past year.

Resolved—3. On the motion of Mr. Dodds, M.P., seconded by Mr. John Hopgood: That the members of the association (page 3 of the report) be elected chairman, deputy chairman, and members of the committee of management for the ensuing year.

Resolved—4. On the motion of Mr. Stephen Williams, seconded by Mr. B. T. Sharpe, of Norwich: That the best thanks of the association be presented to Mr. J. Morris for his services as auditor, and that he be requested to accept the same office for the ensuing year.

Resolved—5. On the motion of Mr. E. Benham, seconded by Mr. W. H. Partington, of Manchester: That the best thanks of the association be presented to the Council of the Incorporated Law Society, for the cordial co-operation they have afforded to the committee of management during the past year, and for their courtesy in lending one of their rooms for the purpose of this meeting.

Resolved—6. On the motion of Mr. T. Arison, of Liverpool, seconded by Mr. C. F. Tagart: That the best thanks of this meeting be presented to Mr. Edward Lawrance for his services during the past year, and for his able conduct in the chair this day.

The meeting concluded with a vote of thanks to the secretary, which was moved by Mr. Edward Lawrance, the chairman, and seconded by Mr. E. Benham.

SOLICITORS' BENEVOLENT ASSOCIATION.

The twenty-fourth half-yearly general meeting of the members and friends of the above association, established in 1858, for the relief of poor and necessitous attorneys, soli-

citors, and proctors throughout England and Wales, and their wives, widows, and families, was held in the hall of the Incorporated Law Society, Chancery-lane, on Wednesday last, the 27th inst., in the presence of a good number of the profession, for the purpose of receiving the directors' report and statement of accounts for the past half-year and transacting other business. The chair was occupied by W. Strickland Cookson, Esq.

The SECRETARY having read the notice of meeting, and the minutes of the last half-yearly general meeting, the following report was received and adopted:—

The termination of another half-year, renders it the duty of the board of directors, in conformity with the rules, again to address the general body of members as to the affairs of the association, and they have much pleasure in being enabled to report its increasing prosperity.

The number of new members admitted since October last is 95, of whom 22 are life and 73 annual members. The aggregate number now enrolled is 2,080, of whom 721 are life and 1,359 annual subscribers; 23 life members are also annual subscribers.

The general circulation of the society's printed reports amongst the members of the profession has materially assisted in producing this accession of new members, and the directors deem it necessary to mention the fact, not only as a subject for congratulation, but because the outlay incurred in this mode of bringing the objects and claims of the institution under the notice of the profession has been considerable.

The usual audited abstract of the accounts is appended, from which it will be seen that the receipts during the half-year, including the balance of £232 18s. 10d. from the previous account, have amounted to £1,550 8s. 7d.

During the half-year, the sum of £385 has been expended in relief; of that amount the sum of £230 has been applied in grants of assistance to distressed members and families of deceased members, and £155 in alleviating the necessities of families of deceased solicitors, non-members of the association.

The sum of £650 has been added to the invested fund in the purchase of India Four per Cents., and the funded capital of the association now consists of £4,338 10s. India Four per Cents., £7,803 17s. 8d. India Five per Cents., and £5,071 6s. 4d. Three per Cent. Consols, producing together annual dividends amounting to £700.

Observations having been addressed to the board on the small amount of relief granted, the directors desire to point out that, in accordance with a resolution passed by the general meeting in April, 1861, and re-affirmed by another meeting in October, 1862, they are restricted from giving relief beyond the amount of the annual dividends.

A balance of £235 2s. 10d. remains to the credit of the association with the Union Bank of London, and a sum of £15 is in the secretary's hands.

The directors deeply regret to have to record the decease, since the last general meeting, of two of their valued colleagues—Mr. Francis Hoole, of Sheffield, and Mr. Thomas Harrison, of London—both of whom were trustees. The vacancies at the board have been filled by the appointment of Mr. John Yeomans, town clerk of Sheffield, and Mr. William Hine Haycock, of London. The complement of trustees will have to be filled up, in conformity with the rules, at the next provincial general meeting.

The directors have the gratification to announce that the Vice-Chancellor, the Hon. Sir. Richard Malins, has kindly accepted their invitation to preside at the tenth anniversary festival of the association, which will take place on Wednesday, the 15th of June next, at the Freemasons' Tavern, Great Queen-street, London. Seventy-nine gentlemen have already taken upon them the office of stewards, and the secretary will be happy to receive other names. The directors confidently trust that by hearty and general co-operation among the friends of the association, its interests may be greatly promoted on that occasion.

The usual complimentary votes were then passed to the directors and auditors for their valuable services during the past half-year, to the council of the Incorporated Law Society for permitting the meetings of the association to be held in their hall, to the chairman for presiding, and the secretary, and the proceedings of the meeting terminated.

LAW AMENDMENT SOCIETY.

A meeting of the Law Amendment Society will be held on Monday next, when will be considered—"The High Court of Justice and the Appellate Jurisdiction Bills." G. W. Hastings, Esq., will open the discussion. The chair will be taken at eight o'clock by George Melliah, Esq., Q.C. A meeting of the Law Amendment Committee will meet at seven o'clock.

LAW STUDENTS' DEBATING SOCIETY.

At the meeting of this society held on Tuesday, the 26th of April, the question for discussion was No. CLXXXVI. Jurisprudential—"Should the game laws be abolished?" Mr. Drake opened the debate in the negative, and the question was ultimately decided in that way by a large majority.

COURT PAPERS.

BRISTOL ELECTION PETITION.

Britt and Others, Petitioners; E. S. Robinson, M.P., Respondent.

An election petition from Bristol against the return of Mr. Robinson was lodged last Friday week at the Common Pleas Rule Office. The petition alleges bribery, treating, and gross personation of voters at the election, and prays that the election may be declared void.

Mr. Baron Bramwell will be the judge to try the petition.

The agent for petitioners is Mr. T. Gilbert, of 4, Victoria-street, Westminster; the agents for respondent are Messrs. Wyatt & Hoskins, of 24, Parliament-street.

PUBLIC COMPANIES.

GOVERNMENT FUNDS.

LAST QUOTATION, April 29, 1870.

[From the Official List of the actual business transacted.]

3 per Cent. Consols, 94	Annuities, April, '85
Ditto for Account, May 94⅛	Do. (Red Sea T.) Aug. 1908
3 per Cent. Reduced 92⅛	Ex Bills, £1000, — per Ct. 5 p m
New 3 per Cent., 92⅛	Ditto, £500, Do — 5 p m
Do. 3½ per Cent., Jan. '94	Ditto, £100 & £200, — 5 p m
Do. 2½ per Cent., Jan. '94	Bank of England Stock, 4½ per Ct. (last half-year) 234
Do. 5 per Cent., Jan. '73	Ditto for Account,
Annuities, Jan. '80 —	

INDIAN GOVERNMENT SECURITIES.

India Stk., 10½ p Ct. Apr. '74, 209½	Ind. Enf. Pr., 5 p C., Jan. '73 106
Ditto for Account	Ditto, 5½ per Cent., May, '79 110¾
Ditto 5 per Cent., July, '80 113¾	Ditto Debentures, per Cent., April, '64 —
Ditto for Account, —	Do. Do., 5 per Cent., Aug. '73 104
Ditto 4 per Cent., Oct. '88 100⅜	Do. Bonds, 4 per Ct., £1000 24 p m
Ditto, ditto, Certificates, —	Ditto, ditto, under £1000, 24 p m
Ditto Enfaced Ppr., 4 per Cent. 91⅜	

RAILWAY STOCK.

Shres.	Railways.	Paid.	Closing prices
Stock	Bristol and Exeter	100	80
Stock	Caledonian	100	73½
Stock	Glasgow and South-Western	100	116
Stock	Great Eastern Ordinary Stock	100	43½
Stock	Do., East Anglian Stock, No. 2	100	7
Stock	Great Northern	100	121½
Stock	Do., A Stock*	100	126½
Stock	Great Southern and Western of Ireland	100	101½
Stock	Great Western—Original	100	72½
Stock	Do., West Midland—Oxford	100	—
Stock	Do., do.—Newport	100	—
Stock	Lancashire and Yorkshire	100	131½
Stock	London, Brighton, and South Coast	100	45½
Stock	London, Chatham, and Dover	100	16½
Stock	London and North-Western	100	128
Stock	London and South-Western	100	93
Stock	Manchester, Sheffield, and Lincoln	100	59½
Stock	Metropolitan	100	77½
Stock	Midland	100	126½
Stock	Do., Birmingham and Derby	100	93
Stock	North British	100	36
Stock	North London	100	121
Stock	North Staffordshire	100	62
Stock	South Devon	100	47
Stock	South-Eastern	100	78
Stock	Taff Vale	100	

* A receives no dividend until 6 per cent. has been paid to B.

MONEY MARKET AND CITY INTELLIGENCE.

The week opened with Consols decidedly strong in spite of a brisk demand for money. They have not, however, maintained

their tone, and hang rather heavy just now, but the relapse appears to be due to merely temporary influences. Railways, which at one period in the week showed an improvement, have also relapsed, and the prevailing uncertainty as to what the Chancellor of the Exchequer will do with the duty, has a depressing influence. Great Westerns have made a slight further advance. Eries have receded somewhat, the accounts from New York not being very encouraging. The Indian guaranteed stocks remain without alteration, at the improvement effected a short while back. The new Japanese 9 per cent. loan has been very well received, the subscriptions being nearly double the amount to be alloted.

The twenty-first annual meeting of the Prudential Assurance Company was held on the 22nd inst. The report states that the new annual premims for the year 1869 amounted to £102,323, and the claims paid to £86,594. The usual interest on the shares, at the rate of 5 per cent. is now payable.

The annual meeting of the London and Provincial Law Assurance Society was held on Wednesday. The report states t hat the new business during the year amounted to 197 policies, assuring £289,970, and yielding £10,849 in premiums. The total premium receipts reached £83,747, and the interest on the investments £22,779 11s., making the total income of the twelve months £106,526, as against £97, 937, the income of the previous year; the sum of £5,666, was also received in respect of annuities granted. Claims have been paid upon the deaths of twenty-two lives, assured under thirty-one policies, in the aggregate sum of £34,786, including bonus additions of £3,386; of this amount £2,580 was covered by re-assurances, thus reducing the payments by the society on this head to £32, 206.

Lord and Lady Cairns have arrived in Paris, on their way back to England.

The death is announced of the Hon. Mrs. Isabella Sophia Whately, sister of Lord Chancellor Cottenham.

Mr. R. S. Sowler, Q.C., met with an accident recently, by which his leg was broken, while getting out of his car at Ellerthwaite, on his way to the Windermere railway station.

Mr. J. A. Russell, Q.C., Judge of the Manchester County Court, has been requested to accept the office of President of the Manchester and Salford Court of Conciliation and Arbitration, in the room of Mr. Alfred Milne.

Mrs. Western Wood, a sister-in-law of the Lord Chancellor, died at North Cray-place, Kent, on the 24th of April. The deceased lady was the youngest daughter of Mr. John Morris, of Baker-street, and relict of the late Western Wood, Esq., younger brother of Lord Hatherley, who was for some time M.P. for the city of London, and died in 1863.

On Thursday Mr. Justice Blackburn made absolute a rule to restore Mr. Frederick Augustus Farrar to the roll of attorneys. It may be remembered that Mr. Farrar was convicted of forgery in October, 1868, after which it was a matter of course that he should be struck off the rolls. Subsequently the Home Office discovered that he had been wrongfully convicted, and he consequentiy received a free pardon. Mr. Justice Blackburn, having satisfied himself that the pardon was granted *ex debito justitiæ* on the merits of the case, made the rule absolute to restore Mr. Farrar to the roll.

In a late case of *Demott* v. *McMullen*, the Superior Court of New York held that necessaries purchased by a married woman are not chargeable upon her separate estate, unless perhaps purchased expressly on the credit of it, and charged upon it by some affirmative act on her part sufficient in law for that purpose. In passing the Act of 1860, the Legislature could not have intended to make the separate estate of a married woman liable for necessaries purchased by the husband through the agency of his wife, although the statute says so. The Legislature probably intended to enact that the separate estate of a married woman may be held liable for a debt contracted for the support of herself or her children by her husband as her agent. Before a plaintiff can, in any event, be permitted to collect the husband's debt out of the wife's property under the first section of the Act of 1860, as it reads, he must bring himself within the strict letter of it and show that the debt was contracted for the exclusive support of the wife or her children.—*New York Daily Transcript.*

London and Provincial Law Assurance Society.—At the annual meeting of this society on Wednesday, Mr. George Lake, of the firm of Messrs. Lake & Co., and Mr. Henry H. Burne, of Bath, were elected directors.

Sir Barnes Peacock.—The Indian telegraph informs us that Sir Barnes Peacock, Chief Justice of the High Court of Calcutta, left for England by the mail-steamer on the 26th of April, his successor, Sir Richard Couch, having arrived from Bombay on the previous day. Sir Barnes Peacock was called to the Bar at the Inner Temple in January 1836, and formerly practised on the Home Circuit. He was created a Queen's Counsel in 1850, and in 1852 was appointed legal member of the Supreme Council of India. In 1859 he was nominated to succeed Sir James Colville as Chief Justice of the Supreme Court of Calcutta, and was appointed Vice-President of the Legislative Council of India. He received a fresh appointment to the Calcutta Bench in 1862, as Chief Justice of the newly-established High Court of Judicature. After serving in India for eighteen years, he now retires on a pension, and will most probably, like his predecessors, be added to the Privy Council on his return to England.

YANKEE NEWS.

The German lawyers of New York city have formed themselves into a Legal Aid Society, the object of which is to aid poor Germans lacking the necessary knowledge of the language and laws of the country in law cases.

Mrs. E. Morris, the female occupant of the judicial bench in Wyoming, is described as married; about sixty years of age; more fat than fair, and a believer in spiritualism, and a different organisation of our social as well as our political system.

A Dogberry in Mississippi has made a funny decision. Two negroes, near Rolling Fork, in Issaquena county, had a difficulty, and it resulted in their attendance before a magistrate in the neighbourhood. After a hearing, the justice decided that both men were in fault, and that each should pay a fine of twenty-five dollars and costs, making forty-eight dollars each. But both were unable to pay. The embarrassed squire finally hit upon a plan to get even with them. He put both to work on his forty-acre cotton-patch, and they picked eighteen hundred pounds each to square the bill.—*Albany Law Journal.*

Mrs. Caroline Neil is now a Judge of the Court of Oyer and Terminer at Wyoming.—*Anglo-American Times.*

ESTATE EXCHANGE REPORT.

AT THE MART.

April 22.—By Messrs. Norton, Trist, Watney, & Co.

Freehold rental of £100 per annum, arising out of the Freemason public-house, Howard-road, Stoke Newington. Sold £1,600.

Leasehold residence, No. 86, Gloucester-place, Portman-square, term 18 years unexpired, at a peppercorn. Sold £1,660.

Freehold cottage, situate at Buckhurst-hill, let at £20 per annum. Sold £300.

Freehold 8a. 1r. of arable and meadow land, situate at Woodford, Essex. Sold £1,150.

Freehold, the China Ship public-house, No. 4, Little Hermitage, Wapping, let at £45 per annum. Sold £850.

Freehold two houses (one with shop), No. 5, Little Hermitage-street, and 4, Bushell's-rents, Wapping, producing £40 16s. per annum. Sold £450.

By Mr. Nightingale.

Freehold residence, known as Shalstone-cottage, Surbiton-hill. Sold £1,150.

Freehold house and shop, in the Market-place, Kingston, Surrey. Sold £780.

April 26—By Mr. Saffell.

Freehold residence, No. 45, Albion-road, Stoke Newington, let at £45 per annum. Sold £750.—Freehold Residence, No. 52, Albion-road, let at £42 per annum. Sold £560.—Freehold residence, No. 71, Albion-road, let at £60 per annum. Sold £895.—Leasehold residence, No. 31, Upper Barnsbury-street, Islington, let at £45 per annum, term 39 years unexpired, at £8 per annum. Sold £385.—Leasehold residence, No. 1, Shacklewell-lane, Kingsland, let at £25 per annum, term 2 years unexpired, at £4 per annum. Sold £33.—Leasehold two residences, Nos. 14 and 15, Shacklewell-lane, producing £51 per annum, term 2 years unexpired, at £11 17s. per annum. Sold £58.—Leasehold house, No. 10, Chadwick-road, Peckham, annual value £42, term 89 years unexpired, at £5 10s. per annum. Sold £350.

By Mr. P. D. Tuckett.

Freehold estate, situate in the parishes of Llanraches and Penhow, Monmouth, comprising two farms, with house, cottages, limekiln, and land, containing 344a. 3r. 3p. Sold £9,150.

Freehold ground rent of £250, arising from premises in Victoria-street, Westminster, occupied by Messrs. Hooper & Co. Sold £5,600.

Freehold ground rent of £130 per annum, arising from premises forming the corner of Philipps-street and Francis-street, Westminster. Sold £3,000.

Freehold 3a. 1r. 8p. of meadow land, situate at Egham, Surrey. Sold 270.

By Messrs. Green & Son.

Leasehold profit rental of £300 per annum, arising from No. 76, King William-street, term 7¾ years. Sold £1,430.

Leasehold, four residences, Nos. 1 to 4, Scholastica-terrace, London-road, Clapton, producing £142 per annum, term 96 years unexpired, at £36 per annum. Sold £1,000.

By Messrs. Scobell & Jenkinson.

Freehold, the Victory public-house and cottage, situate at Morton, Surrey. Sold £1,100.

Leasehold improved rental of £31 10s. per annum (for 4 years), arising from No. 32, Jewin-street, Cripplegate. Sold £85.

Leasehold improved rental of £20 per annum (for 9¼ years), arising from No. 1, Monkwell-street, Cripplegate. Sold £115.

By Messrs. Broad, Pritchard, & Wiltshire.

Freehold house and shop, No. 6, Little Compton-street, Soho, let at £42 per annum. Sold £550.

Freehold, nine houses, Nos. 7 to 15, John-street, Southwark, let on lease at £120 per annumt Sold £1,500.

Freehold, the Bluecoat Boy public-house, corner of Lant-street, Southwark, let at £75 per annum. Sold £1,000.

Freehold, four houses, Nos. 1 to 4, William-street, Great Suffolk-street, Southwark, poducing £72 16s. per annum. Sold £550.

Freehold house, No. 1A, William-street, let at £15 per annum. Sold £160.

April 27.—By Mr. Geo. Gouldsmith.

Leasehold residence, No. 20, St. George's-square, South Belgravia, term 61 years unexpired, at £12 12s. per annum. Sold £1,050.

Leasehold residence, with stabling, No. 16, Fulham-road, known as Onslow-house, term 14 years unexpired, at £15 per annum. Sold £600.

By Messrs. Chinnock, Galsworthy, & Chinnock.

Leasehold business premises, No. 214, Piccadilly, producing £500 per annum, term 99 years from 1862, at £100 per annum. Sold £5,820.

Leasehold rent of £60 per annum, arising from house and shop, St. James's-road, Surbiton, term 76 years unexpired, at £20 per annum. Sold £850.

By Messrs. Wilkinson & Horne.

Freehold house and shop, No. 3, Macclesfield-street, Soho. Sold £1,250.

Freehold house and shop, No. 11, Blue Cross-street, Leicester-square. Sold £740.

By Messrs. Edwin Fox & Bousfield.

Copyhold house and shop, being No. 42, Tottenham-court-road. Sold £1,820.

By Mr. F. A. Mullett.

Leasehold residence, with stabling, No. 36, Westbourne-terrace and 36, Gloucester-mews East, Hyde-park, annual value £380, term 67 years unexpired, at £55 annum. Sold £3,800.

AT GARRAWAY'S COFFEE HOUSE.

April 25.—By Messrs. Bailey, Fry, & Wyer.

Leasehold rental of £200 per annum, arising from the Cross Keys public-house, Blackfriars-road, term 51½ years from 1834, at £31 10s. per annum. Sold £1,600.

Leasehold ground-rent of £5 per annum, secured on premises in Clarence-lane, Islington, term 48 years unexpired, at a peppercorn. Sold £65.

Leasehold improved rental of £27 per annum, for 22 years, arising from 119, Lower Kennington-lane. Sold £205.

Leasehold improved ground-rent of £8 8s. per annum, secured on No. 45, Hatfield-street, Blackfriars-road, term 26 years from 1869. Sold £120.

Leasehold, 12 messuages, cottages, and tenements, being 1 to 9, Horsely-down-place, and Nos. 38, 39, and 40, Horselydown-lane, Southwark, producing £203 per annum, term 40 years from 1856, at £42 10s. per annum. Sold £790.

Leasehold, eight houses, 7 to 14, Margaret-street, Limehouse, producing £85 per annum, term 25 years from 1869, at £32 per annum. Sold £316.

Leasehold ground rent of £46 per annum, secured on Nos. 15, to 20, Margaret-street, Limehouse, term 68 years from 1826 at a peppercorn. Sold £645.

Leasehold seven houses, Nos. 10 to 16, Margaret-street, Limehouse, producing £153 per annum, term 25 years from 1869, at a peppercorn. Sold £850.

April 28.—By Mr. F. Inman Sharp.

Two leasehold dwelling houses, Nos. 1 and 2, Ebenezer-cottages, Peckham; term 98 years. Sold £300.—Life policy for the sum of £300, effected in the Provident Institution for Life Assurance of London. Sold £134.—Eleven leasehold houses, 5 to 15, Rock-grove, Bermondsey; term, 69 years. Sold £1,120.—Leasehold shop and premises, 6, Camilla-road, Bermondsey; term 70 years. Sold £225. Leasehold house, 9, Camilla-road, Bermondsey; term 70 years. Sold £195.—Leasehold shop, 12, Camilla-road; also a shop and seven-roomed house, 1 and 2, Blue Anchor-lane, Bermondsey; term 69 years. Sold £500.—Leasehold shop and premises. 102, Keeton's-road, Bermondsey; term 81 years. Sold £450.—Two houses, 8 and 9, Fairlight-terrace, Cemetery-road, Peckham; term 99 years. Sold £370.—Leasehold residence, 15, Athearn-road, Harders-road, Peckham; term, 98 years. Sold £220.—Residence, 1, Raglan-villas, Chaucer-road, Herne-hill; term 99 years. Sold £350.—Two leasehold houses, 7 and 8, Napier-road, Ponder's-end; term 90 years. Sold £320.—Four pieces of freehold building land, in Cheshunt; and two plots of freehold building land, Crescent-road, Cheshunt. Sold £65. The freehold property known as Leyton Grammar School. Sold £950.

BIRTHS, MARRIAGES, AND DEATHS.

BIRTHS.

BLACKMORE—On April 23, at 12, Beacon-hill, N., the wife of Samuel Haywood Blackmore, of the Inner Temple, barrister-at-law, of a son.

CABELL—On April 28, at West-hill, Highgate, the wife of William Lloyd Cabell, of Lincoln's-inn, barrister-at-law, of a daughter, stillborn.

FISHER—On April 23, at 3, Albert-place, South Kensington, W., the wife of Chas. E. G. Fisher, Esq., barrister-at-law, of a daughter.

LUSHINGTON—On April 27, at 21, New-street, Spring-gardens, the wife of Vernon Lushington, Esq., Q.C., of a daughter.

MARRIAGES.

HICKS—WEBSTER—On April 21, at the Church of St. Matthias, Malvern Link, Stanley Edward Hicks, of the Inner Temple, London, barrister-at-law, to Frances Sharpe, only daughter of the late Baron Dickinson Webster, of Penns, in the county of Warwick.

SMITH—WATKINS—On April 27, at Brixworth, Northamptonshire, Horace Smith, Esq., barrister-at-law, of the Inner Temple, and of 32, Sussex-gardens, Hyde-park, London, to Susan Elinor Penelope, daughter of the Rev. C. F. Watkins, vicar of Brixworth.

UMBERS—SMITH—On April 20, at Snitterfield, county Warwick, William Crowther Umbers, solicitor, Wolverhampton, to Sarah, daughter of the late Henry Smith, Esq, the Wolds.

DEATHS.

BAILEY—On April 25, at Hastings, Edward Savage Bailey, Esq., of No. 5, Berners-street, and 19a, Hanover-square, London, in the 76th year of his age.

JOHNSON—On the 18th inst., at St. Aubyn's House, Hove, Louisa Elizabeth Johnson, widow of the late Mr. Wm. Henry Johnson, of Balham and Chancery-lane, solicitor.

PINNIGER—On April 23, at Westbury, Wilts, Jane Anne, the beloved wife of Henry Pinniger, solicitor, aged 74.

STEPHENS—On Tuesday, April 19, at 28, Euston-square, Mary, wife of A. J. Stephens, Esq., Q.C., LL.D.

WILSON—On April 22, at 3, Park Cottages, Haverstock hill, George Wilson, of No. 11, New-inn, Strand, solicitor, aged 65.

LONDON GAZETTES.

Winding up of Joint-Stock Companies.

Friday, April 22, 1870.

Unlimited in Chancery.

Herne Bay Pier Company.—Vice-Chancellor Malins has, by an order dated March 29, ordered that the above company be wound up. Lumley & Lumley, Old Jewry-chambers, solicitors for the petitioner.

Limited in Chancery.

Leeswood Main Coal, Cannel, and Oil Company (Limited).—Petition for winding up, presented April 21, directed to be heard before the Master of the Rolls on April 30. Churchill & Hordern, Devereux-ct, Temple, for Finchett-Maddock & Co, Chester, solicitors for the petitioner.

Tuesday, April 26, 1870.

Limited in Chancery.

Queen Average Association for British, Foreign, and Colonial Built Ships.—Vice-Chancellor Malins has fixed May 6, at 12, at his chambers, for the appointment of an official liquidator.

Zara Baths Company.—Petition for winding up, pretented April 22, directed to be heard before Vice-Chancellor James on May 7. Merriman & Pike, Austinfriars, solicitors for the petitioner.

Creditors under Estates in Chancery.

Last Day of Proof.

Friday, April 22, 1870.

Green, Hannah, Pimlico, Widow. June 5. Re Green, V.C. James.

Lofthouse, John, Boroughbridge, York, Merchant. May 20. Lofthouse v Ramsden, M.R. Paley & Husband, York.

Low, Wm, Highbury-crescent, Islington, Esq. Low v Low, V.C. James. Gush, Finsbury-circus.

Rhodes, Thos, Paignton, Devon, Civil Engineer. May 16. Fraser v Fraser, M.R. Clare, Lpool.

Smedley, Jas Joseph, High-st, Hoxton, Licensed Victualler. May 11. Oliver v Edwards, M.R. Sismey, Serjeants'-inn, Fleet-st.

Wilde, Charlotte, Hungerstone, Hereford, Widow. May 13. Wilde v Wilde, V.C. James. Symonds, Hereford.

Wilde, Peter, Hungerstone, Hereford, Farmer. May 13. Wilde v Wilde, V.C. James. Symonds, Hereford.

Tuesday, April 26, 1870.

Evans, Thos Davis, Hale, Farnham, Surrey, Hop Planter. May 26 Gray v Rowe, V.C. Malins. Mason, Farnham.

Marsden, Anne Maria, Liscard Castle, Chester, Widow. May 23. Gardner v Marsden, V.C. James. Stockley & Becket, Lpool.

Woolrich, Anna, Clarendon-villas, Loughborough-pk, East Brixton, Spinster. May 30. Butt v Harcourt, V.C. Stuart. Harcourt, Mydleton-st, Clerkenwell.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

Friday, April 22, 1870.

Ambler, Benj, Oxford-ter, Upper Holloway, Brick Manufacturer. June 1. Donnithorne, Gracechurch-st.

Browne, Hy, Norwich, Esq. June 1. Daveney, Norwich.

Burbidge, Sarah, Clifton, Bristol, Widow. June 11. Abbott & Leonard, Bristol.

Causer, Benj Brettell, Henley-upon-Thames, Oxford. June 24. Burne, Lincoln's-inn-fields.

Hand, Geo, Waterloo, nr Lpool, Gent. June 1. Richardson & Co, Lpool.

Hickman, Thos, Nottingham, Butcher. June 24. Cockayne & Talbot, Nottingham.

Hinksman, Hy Benj, St Luke's Hospital, Old-st, Finsbury, Writer. May 11. Paterson & Co, Bouverie-st, Fleet-st.

Matthews, Wm, East Dean, Gloucester, Yeoman. June 10. Carter & Goold, Newnham.

Mosbery, Geo, Portsea, Hants, Gent. May 14. Edgcombe & Cole, Portsea.

Murray, Geo, Chester-le-Street, Durham, Gent. June 8. Watson, Newcastle-upon-Tyne.

Palk, Robt John, Lyall-street, Belgrave-square, Esq. June 1. Austen, De Gex, & Harding, Raymond-bldgs, Gray's-inn.

Powter, Philip, Gloucester-pl, Brixton, Gentleman. May 31. Underwood, Chancery-lane.

Shaft, Susannah, Queen-st, Brompton, Widow. June 20. Lindley, Catherine-st, Strand.

Stainforth, Georgiana, Leamington, Warwick, Spinster. June 6. Tilleard & Co, Old Jewry.

Tuesday, April 26, 1870.

Baggallay, Richard, Upper Tooting, Surrey, Esq. July 20. Powys, Russell-sq.

Deacon, Maria, Lower Phillimore-pl, Kensington, Spinster. June 1 Waddilove, Godliman-st, Doctors'-commons.

Ellyard, Samuel, Kingston-upon-Hull, Butcher. May 7. Sibree, Hull.

Forster, Thos Bowes, Burcher, Hereford, Lieut-Col. June 1. Bodenham & Temple, Kington.

Gates, Louisa, Milton-next-Gravesend, Kent, Widow. June 1. Wates, Gravesend.
Goodman, John, Foss Bridge, Gloucester, Innkeeper. July 4. Stiles, Northleach.
Gordon, Geo, Rotherhithe, Surrey, Ship Chandler. June 9. Waltons & Co, Great Winchester-st.
Graham, Wm, Willesden, Gent. June 24. Donne, Princes-st, Spital-fields.
Grantham, Geo, Kensington-park-rd, Bayswater. Lieut-Gen. May 22. Chapple, Carter-lane, Doctors'-commons.
Herbert, Cornelius Wm Hill, Leicester, Builder. June 30. Miles & Co, Leicester.
Houghton, John, Claughton, Chester, Lieut Royal Navy, May 31. Heane, Newport.
Houghton, Chas, Darling Downes, New South Wales, Esq. May 31. Heane, Newport.
Hutchinson, Wm, Over Darwen, Lancaster, Land Valuer. May 23. Robinson & Sons, Blackburn.
Prior, Hy, Coltishall, Norfolk, Major-Gen. June 2. Beachcroft & Thompson, King's-rd, Bedford-row.
Tillson, Fredk, Bushey, Herts. May 31. Stevens & Co, Nicholas-lane, Lombard-st.
Waide, Wm, Methley, York, Butcher. July 1. Turner, Leeds.
Weymouth, Jonathan, Clifford's-inn, Fleet-st, Gent. Aug 20. Berkeley, Gray's-inn-sq.
Williams, Caroline Matilda, Colby-rd, Gipsy-hill, Norwood, Widow. May 25. Rose, Salisbury-st, Strand.

Deeds registered pursuant to Bankruptcy Act, 1861.

TUESDAY, April 26, 1870.

Aris, Wm John, West Cowes, Isle of Wight, Hotel Keeper. March 25. Comp. Reg April 22.

Bankrupts.

FRIDAY, April 22, 1870.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

Barlow, Edmund Alfd, South Molton-st, Oxford-st, Journeyman Coach Plater. Pet April 21. Hazlitt. May 4 at 12.
Chabaud, Eugene, Wood-st, Cheapside, Warehouseman. Pet April 20. Pepys. May 3 at 12.
Mingay, Thos Walter, Leigh-st, Burton-crescent, Oilman. Pet April 20. Spring-Rice. May 13 at 12.
Wigley, Chas, Gate-st, Lincoln's-inn-fields, Bucket Manufacturer. Pet April 21. Roche. May 4 at 11.

To Surrender in the Country.

Brockbank, (not Brockland as in last Gazette), John, Carlisle, Timber Merchant. Pet April 14. Halton. Carlisle, May 2 at 2.
Devoto, Caroline, Halifax, York, out of business. Pet April 18. Rankin. Halifax, May 6 at 10.
Dobbs, John, & John Dobbs, jun, Bream, Gloucester, Builders. Pet April 14. Roberts. Newport, May 11 at 11.30.
Hall, Hy, Leeds, Yorks, Flour Dealer. Pet April 20. Marshall. Leeds, May 5 at 11.
Joseph, Edwin Hy, Wells, Somerset, Innkeeper. Pet April 19. Lovell. Wells, May 5 at 12.
Lenthall, Wm, Taunton, Somerset. Pet April 20. Meyler. Taunton, May 7 at 11.
Martyn, John, Newton Abbott, Devon, Innkeeper. Pet April 20. Daw. Exeter, May 5 at 1.30.
Molyneux, Hy, Hyde, Cheshire, Druggist. Pet April 2. Hall. Ashton-under-Lyne, May 6 at 11.
Moore, Joseph, John Suttill, Joseph Lund, & Fredk Priestley, Barnoldswick, Yorks, Worsted Stuff Manufacturers. Pet April 14. Robinson. Bradford, May 3 at 9.15.
Riggall, Hy, Satterton, Lincoln, Blacksmith. Pet April 18. Staniland. Boston, May 2 at 12.
Sankey, Isaac, Atherton, Lancashire, Jute Spinner. Pet April 20. Holden. Bolton, May 11 at 10.
Shackel, Thos Wm, Westow Hill-ter, Upper Norwood, Ironmonger. Pet April 19. Rowland. Croydon, May 4 at 11.
Vinten, Jas, & John Jas Vinten, Tonbridge, Builders. Pet April 14. Walker. Tunbridge Wells, May 4 at 3.
Webster, Wm Mannin, Oxford, Bookseller. Pet April 19. Dudley. Oxford, May 10 at 12.

Under the Bankruptcy Act, 1861.

To Surrender in the Country.

Malam, Wm, jun, Prisoner for Debt, Lancaster. Pet Dec 16. Ansdell St Helen's, May 6 at 11.

TUESDAY, April 26, 1870.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

Arnold, Andrew, Church-st, Camberwell, Draper. Pet April 22. Roche May 9 at 12.
Jackson, Wm Tarleton, Union-st, Southwark, Druggist. Pet April 23. Murray. May 4 at 12.
Stunt, Thos, High-st, Kensington, Jeweller. Pet April 22. Roche, May 10 at 11.

To Surrender in the Country.

Attwell, Wm, Kettering, Northampton, Watchmaker. Pet April 23. Dennis. Northampton, May 14 at 11.
Coulson, Wm, Cambridge, Coprolite Merchant. Pet April 22. Eaden. Cambridge, May 10 at 12.
Lee, Bielby, Cheetham, Manch, Gent. Pet April 21. Kay. Manch, May 12 at 10.
Lord, John, Rochdale, Lancashire, Manager. Pet April 23. Tweedale. Oldham, May 6 at 11.
Mills, John, Dolgelly, Merioneth, Miller. Pet April 20. Jenkins. Aberystwith, May 9 at 3.
Paige, Louis le, Bradford, Yorks, Soap Manufacturer. Pet April 22. Robinson. Bradford, May 6 at 9.15.
Simson, John, Colchester, Essex, Comm Agent. Pet April 20. Barnes, Colchester, May 10 at 10.
Sykes, Ephraim, Huddersfield, Cotton Warp Manufacturer. Pet April 26. Jones, jun. Huddersfield, May 7 at 11.
Wallwork, Hy Hacking, Manch, Cotton Waste Dealer. Pet April 22. Kay. Manch, May 12 at 10.

BANKRUPTCIES ANNULLED.

TUESDAY, April 26, 1870.

Chatterton, Seth, Brighton, Sussex, Builder. April 21.
Young, Hy, Ramsgate, Kent, Shoemaker. April 5.